

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1267 OF 2024

Reliance General Insurance Co. Ltd.)
 R/at : 4th Floor, Chintamani)
 Avenue next to Virvani Industrial Estate,)
 Off. Western Express Highway, Goregaon East,)
 Mumbai – 400 063.)... Appellant

Versus

- 1 Prakash Sabaji Kokane)
 Through his next friend Rohidas Gajanan Kokane)
 Age : 53 Occ. At present none)
 Address : R/at. Chincholi Kokane)
 Tq. Ambegaon, Dist. Pune)
 2 Avinash Vitthal Darekar)
 Age : Adult, Occ. Business)
 R/at. : Darekarwadi, Post. Ghodegaon,)
 Tq. Ambegaon, Dist. Pune.)... Respondents

.....

Mr. Avesh A. Ghadge a/w. Mr. Akshay A. Kulkarni, Advocates for the Appellant.

Mr. Yogesh Pande a/w. Mr. Shrikant Kale, Advocates for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATED : 24th JUNE, 2025.

ORAL JUDGMENT :

1. The appellant /Insurance Company has preferred appeal against the Judgment and Order passed by the Motor Accident Claims Tribunal, Pune (for short “**the Tribunal**”).

2. It is contention of learned counsel for the appellant/Insurance

Company that the offending vehicle was not involved in the accident but the Tribunal has not considered this fact. Learned counsel further submitted that there are contradictions in the name of driver of offending vehicle. Learned counsel further submitted that the Tribunal has awarded Rs.9,36,000/- for attendant charges which is exorbitant and Rs.5,00,000/- for future medical expenses, without any evidence on record. Learned counsel further submitted that there is delay in filing FIR, but these facts are not considered by the Tribunal. Learned counsel further submitted that income of the claimant is considered on higher side, though it is not proved and requested to allow the appeal.

3. It is contention of learned counsel for respondent No.1 /claimant that to prove the fact that offending vehicle was not involved in the accident and change in the name of driver of offending vehicle, the appellant/Insurance company has not produced any evidence on record. Learned counsel further submitted that due to accidental injuries, the respondent No.1 /claimant is completely bedridden. He cannot move from one place to other place. Considering the evidence on record, the Tribunal has awarded compensation which is proper and no interference is required in it. He relied on :

- i. K.S.Muralidhar Vs. R. Subbulakshmi & Anr. (SCC SLP (C) No. 18337 of 2021)*
- ii. Jithendran Vs. New India Assurance Co. Ltd. & Anr. (SCC*

2021 ACJ 2736)

iii. Lalan D. Vs. Oriental Insurance Co. Ltd. (2020 ACJ 2517)

4. I have heard both the learned counsel. Perused Judgment and Order passed by the Tribunal. Though, learned counsel for the appellant has taken the ground that the offending vehicle was not involved in the accident and there is contradictions in the name of driver of offending vehicle but no evidence is produced on record to prove these issues, hence I do not find merit in these contentions. The Tribunal has awarded Rs.9,00,000/- for attendant charges and Rs.5,00,000/- for future medical expenses.

5. It is claimant's case that due to accidental injuries, the claimant has suffered 82% permanent physical disability and 100% functional disability. The Insurance Company has not challenged the disability. The Court Commissioner was appointed to record the evidence of the claimant. Due to accidental injuries, the claimant was bedridden and he was unable to move from one place to other place. PW-2 Dr. Rahul Keskar has stated that several surgeries were operated on the claimant and due to accidental injuries, he cannot move from one place to another place. Considering the condition of the claimant, the Tribunal has awarded Rs.9,00,000/- as attendant charges as respondent No.1/claimant is required life long attendant. I do not find infirmity in it. In my view, as per view of Hon'ble Apex Court in the case of *K.S.Muralidhar Vs. R. Subbulakshmi & Anr.*

(*supra*), the claimant is entitled for attendant charges and future medical expenses. Considering the above reasons, the appeal is devoid of merit and I pass following order:

ORDER

- i. The appeal is dismissed.
- ii. The respondent No.1 / claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
- iii. The statutory amount along with accrued interest be transmitted to the Tribunal. The parties are at liberty to withdraw it.
- iv. All pending applications, if any, stands disposed of.
- v. R & P be sent back to the Tribunal.

(SHIVKUMAR DIGE, J.)