

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 1699 OF 2024

Reliance General Insurance Company	}	
Limited	}	
570, Naigaum Cross Road,	}	
Next Royal Industrial Estate, Wadala (W),	}	
Mumbai-400 031.	}	...Appellant

Versus

1. Smt.Ruby Dinkar Rao	}	
Age-73 years (Mother of deceased)	}	
R/at 3/502, Sai Niketan, Pratiksha Nagar,	}	
Near Mata Garden, Sion, Mumbai-400022,	}	
Maharashtra	}	

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2. Mr.Amit Datta Mane	}	
(Regd. Owner of M/Trailer No.MH-04-FJ- 5421)	}	
R/at A/503, Kranti CHS, B.No.42, S.G.	}	
Barve, Mumbai-400024, Maharashtra.	}	...Respondents

Mr.Akshay Kulkarni a/w Mr.Avesh Ghadge, for the Appellant.
Mr.Amol Gatne i/b Ms.Swati V. Mehta, for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 25th JULY 2025

ORAL JUDGMENT :-

. This Appeal is preferred by the Appellant-Insurance

Company against the judgment and order passed by the Motor Accident Claims Tribunal, ('the Tribunal' for short), Mumbai.

2. It is contention of the learned counsel for the Appellant-Insurance Company that, the Tribunal has considered monthly income of the deceased at Rs.35,000/- per month, which is on higher side. The deceased was working as Consultant. The voucher produced on record shows that, he was not getting Rs.35,000/- per month. The learned counsel further submitted that, the accident occurred due to contributory negligence of the deceased, but the Tribunal has not considered this fact and requested to allow the Appeal.

3. It is contention of learned counsel for the Respondents-Claimants that, the deceased was working as Consultant and getting more than Rs.35,000/- per month. To prove the income of the deceased the Salary Certificate is produced on record. The learned counsel further submitted that, to prove the contributory negligence of the deceased, the driver of the offending vehicle did not step into witness box and on the basis of evidence produced on record, the Tribunal has awarded

compensation amount. The Tribunal has passed well reasoned order, no interference is required in it and requested to dismiss the Appeal.

4. I have heard both learned counsel. Perused judgment and order passed by the Tribunal.

5. It is Claimant's case that, on 9th March 2019 at about 16.45 hours, the deceased Tarun was riding motorcycle in proper care alongwith looking flow of traffic on the road. When he reached in front of Lodha Commercial Building, Wadala-Chembur Vahini Road, Wadala, one Trailer bearing No.MH-04-FJ-5421 driver of it was driving in rash and negligent manner gave dash to the motorcycle of the deceased. Due to said dash, the deceased fell down and died while taking treatment. The offence was registered against driver of the trailer.

6. It is Claimants case that, the deceased was serving as Consultant with Thakurdas Textiles Pvt. Ltd., his monthly salary was Rs.35,000/- plus Rs.10,000/- from other sources and he was also getting Rs.15,000/- as a coach.

7. To prove the income of the deceased, the Claimants

have examined PW-1, mother of deceased. She has stated that, the deceased was working as Consultant with Thakurdas Textiles Pvt. Ltd. He was getting Rs.35,000/- salary per month. He was getting Rs.10,000/- from other sources and he was also working as coach and getting Rs.15,000/- per month.

8. In support of PW-1, the Claimants have examined PW-2 Rajkumar Jhamtani owner and Director of the Thakurdas Textiles Pvt. Ltd., at Exhibit-24. He has stated that, the deceased Tarun was working in his company since 2016 as Consultant for their companies and company was paying him Rs.35,000/- per month. In cross-examination, he has stated that, in the year 2019, three persons were working his company. He did not produce attendance or wage Register to show that, the deceased was working in their company. The salary certificate is at Exhibit-29.

9. While dealing with the issue of income of the deceased, the Tribunal has observed that, PW-2 has stated that the deceased was getting Rs.35,000/- salary and he was getting income from other sources and on that basis, the Tribunal has

considered monthly income of the deceased at Rs.35,000/- per month. In my view, it is on little higher side. The vouchers produced on record shows that, the deceased was getting amount as per his consultation. The Salary certificate of deceased is produced on record showing that, he was getting Rs.35,000/- as salary, but the deceased was also getting consultation charges, hence salary certificate cannot be considered as evidence of salary. Considering the evidence on record, I am considering Rs.32,000/- as monthly income of the deceased. Considering Rs.32,000/- monthly income of the deceased, the Claimants are entitled for following compensation.

Particulars	Amount
Monthly Income	Rs.32,000.00
(+) Future Prospects (40%)	Rs.1,53,600.00
Annual Income After Future Prospects	Rs.5,37,600.00
(-) Personal Expenses (½th amount)	Rs.2,68,800.00
Multiplier (15)	Rs.40,32,000.00
<u>Conventional Heads with 10% increase</u>	
Consortium (Rs.48,000 x 6)	Rs.48,000.00
Loss of Estate	Rs.18,000.00
Funeral Expenses	Rs.18,000.00

Total Just Compensation Payable	Rs.41,16,000.00
Awarded Amount	Rs.44,94,000.00
Refund to Insurance Company	Rs.3,78,000.00

10. In view of above, I pass following order.

ORDER

- (i) The Appeal is allowed.
- (ii) The Insurance Company is permitted to withdraw Rs.3,78,000/- along with proportionate interest from the deposited amount.
- (iii) The Claimants are permitted to withdraw balance amount alongwith proportionate interest.
- (iv) The statutory amount alongwith interest be transferred to the Tribunal. Parties are at liberty to withdraw it, as per Rules.
- (v) Record and Proceedings be sent back to the Tribunal.
- (vi) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)