IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 933 OF 2025

Reliance General Insurance Co. Ltd.
Thane Divisional Office, Lotus Park, Unit No.202,
2nd Floor, Road No.16, Wagle Industrial Estate,
Thane (West) – 400 604
4th Floor, Chintamani Avenue, Western Express
Highway, Next to Virvani Industrial Estate,
Goregaon (East), Mumbai - 53 … Appellant

versus

1 Dillamma Laxminarayana @ Lakshminarayna Pulakala
Aged about 30 years, Occupation : Housewife

2 Kumar Gurudeepkshit Laxminarayana @ Lakshminarayna Pulakala
Aged about 03 years, Occupation – Nil
(Petitioner No.-02 being minor represented Through natural guardian mother i.e. Petitioner No.01

3 Smt. Krishnavedi Tarnirao Pulakala
Aged about 58 years, Occupation : Nil
All R/at : Room No. €104, Khaitan Residency,
Near Gangotri Hotel, MIDC, District - Palghar

4 Mr. Subhedar H. Khan
R/at Shop No. 19, Mahavir Chamber, Navapur
Road, Boisar, Palghar – 401 501 … Respondents

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Mrs. Kalpana Trivedi, Advocate for the Appellant.
Mrs. Rina Kundu, Advocate for Respondent Nos. 1 to 3/Claimants.

CORAM : R. M. JOSHI, J.

DATE : 10th DECEMBER, 2025.

This Judgment is corrected as per speaking to minutes of order dated 18th December, 2025.

ORAL JUDGMENT :

1. This appeal is filed under Section 173 of the Motor Vehicles Act takes exception to the Judgment and Award dated 17.12.2024 passed in M.A.C.P. No. 314 of 2021 essentially on the ground of quantum.

2. It is the contention of the learned counsel for the appellant / insurer that the Tribunal has committed error in accepting the case of the claimants on the basis of the income tax returns. Learned counsel for the appellant submits that except for income tax there is no evidence placed on record to show income of the deceased. Thus, it is submitted that since the compensation is granted is on higher side, it deserves interference. Learned counsel for the claimants opposed the appeal by drawing attention of the Court to the evidence on record in the form of oral evidence of the claimant No.1 so also income tax returns. She draw attention of the Court to the cross objection of the witness wherein no questions are put creating doubt about the income in the income tax return or interference in the income tax. It is however submitted that the Tribunal has not granted consortium to widow and mother of the deceased. As per the view of Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram***[1], each claimant is entitled for Rs.48,000/-. The claimants are required to prove their case on preponderance of probability.

3. The claimant No.1 step into the witness box and deposed about

1 2018 ACJ 2782 (SC)

the business being conducted by deceased and filing of the income tax returns by him. During the cross examination, there is no single suggestion made to this witness taking exception to the occurrence of the income tax return. On the contrary during the cross examination, it is clear that the deceased was conducting the business as a contractor. Thus, there is evidence to show income of the deceased and which has been rightly taken into consideration by the Tribunal. This Court, therefore, finds no substance in the appeal.

4. The claimants are entitled to receive enhancement in the compensation without filing appeal or cross objection in view of ***Pappu Deo Yadav Vs. Naresh Kumar***[2]. In view of the Judgment in the case of ***National Insurance Co. Ltd. vs. Pranay Sethi***[3] the widow as well as mother of deceased are entitled to receive consortium i.e. an amount of Rs.48,000/- each. It comes to Rs. 96,000/-.

5. In view of above, I pass following order:

ORDER

i. The appeal is dismissed.

ii. The claimants are entitled for an amount of Rs.96,000/- towards consortium along with interest @ 8% p.a. from the date of the petition till realisation.

2 2020 AIR 4424 (SC).
3 2017 ACJ 2700(SC)

iii. The appellant/Insurer to deposit the enhanced amount of Rs.96,000/- along with interest as mentioned in the above clause within four weeks from today.

iv. The claimants are permitted to withdraw the deposited amount along with interest @8% p.a. from the date of petition till realisation.

v. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

vi. R & P be sent back to the Tribunal.

7. In view of dismissal of appeal, all pending applications, if any, stand disposed of.

(R. M. JOSHI, J.)

This Judgment is corrected as per speaking to minutes of order dated 18th December, 2025.