Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.90 OF 2024

National Insurance Company Limited …Appellant
Versus
Shri Baliram Pandurang Shirke and ors. …Respondents

Mr. P. A. Narayanan, for the Appellant.
Mr. Shruti Tulpule, for the Respondents Nos.1 and 2.

CORAM: R. M. JOSHI, J.

DATED: 10th FEBRUARY, 2026.

PC:-

1. By consent of both sides, heard finally at the stage of admission.

2. This appeal takes exception to the judgment and order dated 30th August, 2019 passed by the Motor Accident Claims Tribunal, Mangaon - Raigad in Claim Application No.114 of 2012, directing Opponents Nos.1 and 2 to pay compensation of Rs.19,00,000/- with interest at the rate of 7% p.a.

3. It is the case of the Claimants before the Tribunal that on 3rd May, 2012, at about 22.15 hours an accident occurred when the deceased was proceeding on motor-cycle bearing registration No. MH-06-TC-64, a Toyota-Qualis jeep vehicle bearing registration No.MH-02-AC-0555 owned by Opponent No.1 and insured with

Opponent No.2 gave dash to the motor-cycle of the deceased. In the said accident, he sustained serious injuries and thereafter he was admitted in the hospital. Offence came to be registered by Crime No.53 of 2012. It was further case of the Claimants that the Claimants were dependents upon deceased, being their son. It is claimed that deceased was earning Rs.16,000/- per month.

4. The owner of the offending vehicle failed to appear before the Tribunal and hence, claim proceeded ex-parte against him. Insurer, however, by filing written statement (Exhibit-11) denied insurance of the vehicle and alternatively, it is claimed that there is breach of condition of the policy. There is allegation against the deceased that accident occurs due to his negligence. The other contentions of the Claimants with regard to the alleged income etc. of the deceased are also denied.

5. Claimants examined Claimant No.1 and placed reliance on police papers and documentary evidence. No evidence was led by the Insurer. Learned Tribunal allowed the claim filed by the Claimants. Hence, this appeal.

6. Learned counsel for the Appellant submits that amongst other contentions, such as breach of conditions of the policy, negligence of the deceased, the exception is taken to the impugned judgment and award on the ground of error committed by the Tribunal in granting excessive amount of compensation.

7. Learned counsel for the Claimants supported impugned judgment and award.

8. The Claimant No.1 examined himself and placed reliance on the police papers. There is no dispute with regard to the fact that offence came to be registered against the driver of the offending vehicle. Claimants also led evidence to show that deceased was well qualified in order to earn Rs.16,000/- per month. The learned Tribunal considering the evidence on record has accepted the income of the deceased at the rate of Rs.12,000/- per month. The Claimants are not seeking enhancement of the compensation. The calculation of the compensation done by the Tribunal is in consonance with evidence on record and also as per settled position of law.

9. As a result of above discussion, I pass the following order:-

ORDER

(i) First Appeal stands dismissed.

(ii) The Claimants are permitted to withdraw the deposited amount alongwith accrued interest thereon.

(iii) The statutory amount be transmitted to the Tribunal alongwith accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

(iv) Record and proceedings be sent back to the Tribunal.

(R. M. JOSHI, J.)