

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 411 OF 2024

Reliance General Insurance
Company Ltd., Thane

...Appellant

Versus

1. Mr. Akshay Anil Shinde
2. Mr. Kaushik Balu Karamble
3. Mr. Ravi Kishorbhai Parmar

...Respondents

Mr. Shalini Shankar, for Appellant.
None for the Respondent Nos. 1 to 3.

CORAM : R.M. JOSHI, J.

Date : January 29, 2026

PC :

1. None for Respondent Nos. 1 to 3 in spite of service of notice.

Hence, proceeded *ex parte* against them.

2. Heard Counsel for the Appellant.

3. The Appellant-Insurer takes exception to a judgment and award dated 11th March, 2022 passed in M.A.C.P. No. 349 of 2015 (“*impugned judgment and award*”) thereby insurance claim filed by the claimants came to be allowed directing the Original Appellant Nos. 1 to 3 to pay jointly and severally Rs. 7,95,200/- with interest at the rate of 7% per annum along with additional penal interest at the rate of 8% per annum.

4. There is no dispute about the fact that the accident occurred on 16th March, 2015 involving motorbike bearing No. MH-02-CU 1818 on which the Claimant was a pillion rider and another motorbike bearing No.MH-04-EZ-8528. It is the case of the Claimant that the accident occurred due to the negligence of the rider of the offending motorcycle. In the said accident, the Claimant sustained injuries and was required hospitalization. The Appellant-Insurer takes exception to the impugned judgment and award on the ground that the Tribunal erred in assessing the age as well as the income of the injured Claimant by considering his monthly income at Rs. 8,000/-. It is also contended that on the basis of the papers on record, it can be said that the rider of the offending motorcycle was not negligent and responsible for the occurrence of the accident. Apart from the fact that the quantum of compensation is challenged, Learned Counsel for the Appellant also takes exception to the penal interest granted by the Tribunal.

5. Perusal of the record indicates that the Claimant led evidence and deposed on oath about the manner in which the accident in question occurred. Since, the Claimant was a pillion rider on the motorcycle, his testimony regarding the occurrence of the accident deserves acceptance.

The opponents have failed to lead any evidence to prove otherwise.

6. On the point of quantum, as the first instance, the Claimant substantiated the injuries sustained in the accident, so also, the resulting disability by examining Dr. Sameer, Lokare. Dr. Lokare assessed the disability of the claimant to the extent of 42%. The Medical Officer specifically stated about the Claimant having difficulty in walking, sitting cross-legged, climbing and facing difficulty in performing daily activities. In the facts of this case and also in view of the opinion of the experts, this Court finds no reason to interfere with the Tribunal's finding accepting the disability of the Claimant to the extent of 42%. Though, it is now argued now that the Claimant failed to prove his age, however, no specific case is sought to be made before the Tribunal in that regard. The Tribunal has considered the earning of the Claimant notionally at the rate of Rs. 8,000/- per month, and considering the facts of this case, the said assessment cannot be said to be excessive. The Tribunal has rightly applied the principles governing in grant of compensation in injury claims. Similarly, the evidence in respect of the medical expenses has been rightly taken into consideration leaving no reason for this Court to cause interference therein. This Court, however, finds substance in the

contention Learned Counsel for Appellant that the penal interest at the rate of 8% ought not to have been granted by the Tribunal.

7. Following the judgment of the Division Bench of this Court in case of *New India Assurance Co. Ltd. Vs. Smt. Saira Imtiaz Lambe & 3 Ors.*¹, the penal interest granted by the Tribunal deserves to be set aside. As a result of the above discussion, following order :

O R D E R

- i. The Appeal is *partly allowed*.
 - ii. The award passed by the Tribunal granting compensation and interest thereon is maintained; however, the direction of granting penal interest is set aside.
 - iii. The statutory deposit shall be transferred to the Tribunal within six weeks from today.
 - iv. The order passed by the Tribunal in respect of penal interest of 8% per annum stands set aside.
8. The Appeal stands *disposed of* in the aforesaid terms.

[R.M. JOSHI, J.]

1 First Appeal No. 783 of 2015 dt. 22nd December, 2015

Page 4 of 4
January 29, 2026