Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 574 OF 2024

Reliance General Insurance Co. Ltd. …Appellant

Versus

Rahul @ Rawul Bhaguram Sawant And Ors. …Respondents

Mr. Avesh Ghadge i/b Akshay Kulkarni, for the Appellant.
Ms. Yashika Jain i/b Jitendra Gor, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 18th FEBRUARY, 2026

PC:-

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

2. This Appeal takes exception to the Judgment and Award dated 31st March, 2023, passed in Motor Accident Claim Petition No. 2148 of 2017, whereby death claim filed by the claimants was allowed by directing compensation of Rs.43,42,000/- alongwith interest @ 7.5% per annum from the date of petition till realization of the amount.

3. The appellant/insurer takes exception to the Judgment and Award on the ground that the Tribunal has failed to take into consideration evidence on record which indicate negligence on the part of the deceased while crossing the road and thus,

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contributing to the occurrence of the accident. Similarly, the income of the deceased is said to have been not proved for the purpose of computation of compensation.

4. Learned counsel for the appellant/insurer submits that on the basis of the police papers it can be seen that the deceased was negligent in crossing of the road and thus, has contributed to the occurrence of the accident. It is his further submission that the Tribunal has accepted the income of the deceased on higher side. It is his further argument that the claimants have failed to prove age of the deceased and only on the basis of inquest *panchanama,* the age of deceased is considered and accepted by the Tribunal, which is erroneous.

5. Learned Counsel for the claimants supports impugned judgment and award.

6. The claimants are required to prove their claim on preponderance of probability. The evidence on record, more particularly, police papers indicate that the driver of the offending vehicle has not taken a proper care in order to avoid the occurrence of the accident. Pertinently, no evidence was led either by the owner or insurer of the offending vehicle to show any contributory negligence on the part of the deceased in causing of the accident.

7. Insofar as income is concerned, the claimants examined employer, so also, placed reliance of Income Tax Returns. For want of any doubt being created in respect of said evidence, it cannot be said that the income of the deceased as accepted by the Tribunal is erroneous. The claimants were required to substantiate age of the deceased and the same has been done on basis of inquest panchanama. There is no contrary evidence brought on record to hold otherwise.

8. The learned Tribunal has, therefore, rightly appreciated the evidence on record by insurer and allowed the claim. Hence, there is no merit in the appeal.

9. In view of the above, I pass the following order.

ORDER

a) The Appeal stands dismissed.

b) The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

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

d) R & P be sent back to the Tribunal.

10. In view of dismissal of the Appeal, pending Applications, if any, stand disposed of.

(R. M. JOSHI, J.)