

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1284 OF 2024

Tata AIG General Insurance Co. Ltd.

...Appellant

Versus

Smt. Takrimunnisa Jamal Ahmad Choudhari And Ors. ...Respondents

Mr. Devendranath S. Joshi, for the Appellant.

Ms. Rina Kundu, for the Respondent Nos. 1 to 4.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : February 25, 2026

P. C. :

1. The First Appeal has been preferred against the judgment and award dated 10th March, 2023 passed by the Commissioner for Employees' Compensation directing the insurer to pay compensation.
2. The facts of the case are that an application came to be filed under Section 22 of the Employees' Compensation Act, 1923 (EC Act) seeking compensation in respect of the death of the deceased by his dependents. By the impugned order dated 10th March, 2023, the Trial Court allowed the application and directed payment of compensation of Rs. 8,15,400/-. The Trial Court framed necessary issues as regards the existence of employer-employee relationship and whether the deceased met with an accident arising out of course of his employment and on appreciation of the evidence on record, answered the same in

favour of the Applicant.

3. Learned counsel for the Appellant would submit that there was no document produced on record to show that the deceased was employed with Respondent No. 5. He submits that in so far as the death of the deceased is concerned, the same did not arise out of the course of employment as the death occurred due to electrocution as the deceased was helping the Mahanagar Telephone Nigam Limited (MTNL) officers in setting up new cable which touched high tension electricity line, and therefore, it cannot be said that the accident has occurred out of the employment of the deceased. He would further submit that the Trial Court erred in accepting that the wages of the deceased was Rs. 10,000/- in the absence of document being produced on record. It was also contended by the learned counsel for the Appellant that the age of the deceased was 44 years though it was stated to be 32 years.

4. *Per contra*, learned counsel for Respondent Nos. 1 to 4 would support the impugned order and would submit that the vehicle in question was owned by Respondent No. 5 and there is evidence on record to establish that the deceased was working with Respondent No. 5 which case is also admitted by the Respondent No. 5. She would further submit that the records would indicate that the deceased was injured by the electric shock when he was driving the truck and had

been stopped by the MTNL Officers and it is the employees of MTNL who climbed on the truck of the deceased for the purpose of setting up the new cable and not the deceased. She would further submit that the Trial Court has rightly taken into consideration the maximum cap of Rs. 8,000/- and has accordingly computed the compensation.

5. I have considered the submissions and perused the record.

6. Under Section 30 of the Workmen's Compensation Act, 1923, the First Appeal lies to this Court only on a substantial question of law. In the present case, insofar as the existence of employer-employee relationship is concerned, Respondent No. 5 has not denied the employer-employee relationship and the Trial Court has noted that the cross-examination of the insurance company did not contain any suggestion as regards the denial of the employer-employee relationship. Even if there was no muster roll or salary certificate produced, it is not disputed that the vehicle in question belonged to Respondent No. 5 and was being driven by the deceased. The Respondent No. 5 has not denied the employer-employee relationship and the fact of being the owner of the vehicle. Considering the evidence on record the Trial Court has rightly held that the deceased was in employment of Respondent No. 5.

7. Insofar as the contention of accident not arising out of employment, the officers/employees of MTNL had lodged a report

about the accident in which the deceased had expired. The details which were given were that for the purpose of installing new telephone line, the truck which was driven by the deceased was stopped on which the informant climbed, and the deceased was standing outside the truck till the process was carried out. As the MTNL Officer threw the new cable it touched high tension electricity line as result of which the electric current passed through it into the container truck and the deceased was severely injured by the electric shock. The deceased was admittedly driving the truck at the time when the accident occurred and it is not that the deceased was doing some work at the instance of the MTNL Officers or attempting to install new cable. As the deceased was proceeding in accordance with the instructions given by the Respondent No. 5 in the course of his employment, the accident has arisen out of the course of the employment.

8. Insofar as the quantum of compensation is concerned, the Trial Court has granted compensation by applying maximum cap of Rs. 8,000/- per month though Respondent No. 5 had produced the salary certificate to show the salary of the deceased at Rs. 10,000/-. Perusal of the impugned order does not indicate that any evidence was brought on record to prove that the deceased was 44 years old apart from stray suggestions in the cross-examination. The Trial Court has

considered the police report which mentions the age of deceased as 32 years as well as the medical notification of death by the Thane Municipal Corporation which showed the age of the deceased to be 32 years. In view thereof, this Court is not inclined to accept that there was any error in computing the compensation by considering the age as 32 years.

9. The findings of the Trial Court based on proper appreciation of the evidence on record and there is no perversity demonstrated. Resultantly, no substantial question of law arises in the present case. Second Appeal stands dismissed.

[SHARMILA U. DESHMUKH, J.]