Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 909 OF 2024

United India Insurance Co. Ltd. Through Divisional Manager …Appellant

Versus

Jayashri Ramesh Deore and Ors. …Respondents

WITH
INTERIM APPLICATION NO.7467 OF 2024
IN
FIRST APPEAL NO. 909 OF 2024

Jayashri Ramesh Deore and Ors. …Applicants

Versus

United India Insurance Co. Ltd. Through Divisional Manager …Respondents

Mr. Nitesh Bhutekar, with M. Aaditya, with Sejal Singh, for the Appellant.
Mr. Sanjay P. Shinde, with Prathmesh T. Bhanuwanshe, for the Respondent Nos. 1 to 4.

CORAM: R. M. JOSHI, J.
DATED: 21st JANUARY, 2026.

PC:-

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

2. This Appeal under Section 173 of the Motor Vehicles Act 1988, takes exception to the Judgment and Award dated 13th September 2022 passed in M.A.C.P. No. 669 of 2017 whereby death claim filed by the Claimants was allowed directing payment of compensation of Rs.22,19,000/- with interest @ 6% p.a..

3. The present Appeal has been filed on the ground of non-involvement of the offending vehicle in the incident in question so also on the point of the quantum of compensation.

4. Learned counsel for the Appellant submits that the police papers on record more particularly, printed format of First Information Report ('FIR') indicates that the accident is said to have been caused by a truck whereas the insured vehicle is Tata Sumo. Thus, it is his submission that in view of the delay of 24 days caused in lodging the First Information Report, serious doubt is created with regard to the involvement of the offending vehicle in the accident in question. This according to him, has not been considered by the Tribunal while fastening the liability of payment of compensation on the Appellant. He also takes exception to the quantum of compensation, which according to him, has been granted without there being any documentary evidence to support the claim of the Claimants.

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

6. The accident in question has occurred on 14th April 2016 whereas the report is lodged on 8th May 2016. The FIR is lodged by the wife of the deceased. She claims that she was proceeding along with the deceased and other persons in Ape Riksha bearing registration no. MH-41-CJ-4564. She states that at the spot of the accident, one vehicle bearing registration no. MH-20-CH-0942 gave forceful dash to the Ape Riksha. As a result of which, the deceased was thrown out of Ape Riksha and sustained serious injuries to his head. She states in the FIR that her husband was initially admitted in Suvidha Hospital, Malegaon and from there, he was shifted to Sahyadri Hospital, Nashik. Thereafter, he died. It is claimed by the Informant that in such circumstances, no report could be lodged immediately. The Informant therefore, explains the delay. In this back-drop, perusal of the cross-examination of the Informant indicates that there was not even suggestion made to the Claimant No.1 that she lodged false report. Thus, there is no evidence to hold that the report in question is not genuine. Since there is even no cross-examination conducted by suggesting non-involvement of the offending vehicle in the accident, this Court finds no reason to cause interference in the findings recorded by the Tribunal with regard to the accident and the negligence of the driver of the offending vehicle in occurrence thereof.

7. As far as compensation granted by the Tribunal, the Tribunal accepted income of the deceased @ Rs.10,000/- per month and calculated the compensation by applying correct multiplier and multiplicant. Hence, there is no merit in the Appeal.

8. Learned counsel for the Claimants submits that from the same accident, two other injury claims were filed by the Claimants, which were allowed and those judgments are not taken exception by the Insurer.

9. Learned counsel for the Appellant-Insurer submits that since in one of those claims, the compensation is below Rs.1 Lakh, probably for that reason, the Insurer has not challenged the said award. Apart from the fact that other claims arising out of the same accident have been allowed by the Tribunal, perusal of the facts of the present case from the record indicates that even otherwise there is no merit in the Appeal.

10. First Appeal stands dismissed.

11. Since the First Appeal itself has been disposed of, nothing survives in the Interim Application therein and the same is also disposed of.

(R. M. JOSHI, J.)

SHAMBHAVI NILESH SHIVGAN

Digitally signed by SHAMBHAVI NILESH SHIVGAN
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