

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1551 OF 2025

Reliance General Insurance Company Ltd.,
 Chintamani Avenue, 4th Floor,
 Near Western Express Highway,
 Goregaon (E), Mumbai 400 063.

...Appellant

~ versus ~

1. **Mohammed Arif Ahmed Shaikh,**
 Age – 28 years,
 Residing AT Room No. 1544,
 Gate No. 6, BMC Colony,
 Near Priime Hospital, Malwani,
 Malad (W), Mumbai 400 095
2. **Mukesh Ramji Bhanushali,**
 Residing at A-13, Satyaseva Rahivashi
 Sangh, Utt. Bhatti, Mogradpada,
 Parsi Panchayat Marg, Andheri (East),
 Mumbai 400 069.

...Respondents

SHEPHALI
 SANJAY
 MORMARE

Digitally signed by
 SHEPHALI
 SANJAY
 MORMARE
 Date: 2026.01.06
 10:28:45 +0530

APPEARANCES

For the Appellant**Mr Pandit Kasar.****For The Respondents****Mr Saumen S Vidyarthi.**

CORAM : R. M. JOSHI, J.

DATED : 5TH JANUARY 2026.**ORAL JUDGMENT:**

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

2. This Appeal is under Section 173 of Motor Vehicles Act 1988 takes exception to the Judgment and Award dated 6th July 2024, passed in MACP No.1296 of 2014, whereby the Tribunal has granted compensation of Rs. 29,14,000/- along with interest at the rate of 7.5 % per annum from the date of filing of the Petition till realisation of the amount.

3. The Appellant/Insurer has filed this Appeal essentially on three counts, i.e., firstly, there being composite negligence of the injured himself in the occurrence of the accident. Secondly, it is claimed that the injured was not holding a driving license and was not wearing a helmet at the time of occurrence of the accident and thirdly, the Judgment is challenged on the ground of quantum contending that the compensation amount granted by the Tribunal is excessive.

4. Learned Counsel for the Appellant/Insurer submits that all the aforestated issues were duly raised in the Written Statement and on the basis of evidence on record, the Tribunal ought to have held that there is a composite negligence on the part of the injured in occurrence of the accident. Similarly, it is his contention that since the injured was not holding a valid driving license and was

not wearing helmet at the relevant time, he is not entitled to receive any compensation. On the point of quantum of the compensation, apart from other submissions, it is sought to be argued that the Tribunal granted excessive amount towards pain and suffering and loss of amenities having regard to the fact that it is a case of injury claim.

5. Learned counsel for the Respondent/Original Claimant though supported the impugned Judgment and Award, it is his contention that having regard to the nature of injuries caused to the claimant, the Tribunal ought to have granted more compensation than the one granted in the impugned Judgment and Award.

6. No doubt, the Insurer had raised the aforestated issues before the Tribunal. However, the evidence on record is insufficient to hold that there is any contributory negligence of the claimant in the occurrence of the accident. In any case, apart from the police papers, which do not indicate any negligence of Claimant, the Insurer has not led any evidence in order to substantiate the said plea. Similar is the case with regard to the plea in respect of the

injured having no driving license and not wearing helmet at the relevant time.

7. Insofar as quantum of compensation is concerned, the Claimant has led evidence of himself as well as the Medical Officer to support his claim with regard to causing of permanent disability. During cross-examination of the witnesses, nothing could be elicited to discard their testimony.

8. The Tribunal has considered the evidence on record in proper perspective and recorded elaborate reasons for allowing the claim of the claimant. This Court finds no perversity in the said findings in order to cause interference therein.

9. Insofar as the contention of the learned Counsel for the Claimant with regard to the enhancement of the compensation, this submission is supported by the judgment of the Hon'ble Supreme Court in case of *Pappu Deo Yadav vs Naresh Kumar*.¹ However, in the facts of the case this Court finds that the amount of compensation granted under the head of pain and suffering and

1 AIR 2020 SC 4424.

loss of amenities is correct. Thus, there is no case made out by Claimant for enhancement of compensation.

10. As a result of above discussion, there is no merit in the Appeal.

11. In view of the above, I pass the following order:

ORDER

- (a) The Appeal is dismissed.
- (b) The Claimants are 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.

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

(R. M. JOSHI, J.)