Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.781 OF 2025

United India Insurance Company Limited …Appellant
Versus
Manisha Bhausaheb Pawar and ors. …Respondents

Mr. Rahul Mehta i/by KMC Legal Venture, for the Appellant.
Mr. Himanshu Jha i/by Mr. Yogesh Pande, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 13th FEBRUARY, 2026.

PC:-

1. This appeal filed by the Appellant takes exception to the judgment and award dated 4th July, 2024 passed by Tribunal in MACP No.9 of 2019 whereby it granted compensation of Rs.18,84,400/- at the rate of 9% per annum from the date of filing of the petition till realization of the amount.

2. The Appellant takes exception to the impugned judgment and award on the ground that the Tribunal has failed to consider negligence of the deceased in occurrence of the accident, so also erred in granting higher amount of compensation, which is not justified in the facts of the case.

3. Learned counsel for the Insurer submits that manner in which the accident has occurred even as per the version of the

Claimants shows that the deceased has contributed in occurrence of the accident. It is further submitted that the Tribunal has considered the notional income on higher side without having evidence as to what nature of work being done by the deceased. It is argued that the Claimants have placed on record documents which indicate that there is a breach of condition of policy, and in such case even though the Insurer has not led any order evidence, the Tribunal ought to have accepted the said documents on record and held in form of Insurer. Thus, it is his submission that there is no liability of the payment of compensation by the Insurer and in alternative, he seeks pay and recover order. Lastly, it is submitted that the Tribunal has granted interest, which is on higher side Learned counsel for the Claimants supported the impugned judgment and order.

4. The burden on the Claimants to prove their claim includes the occurrence of the accident and the liability of Opponent to pay compensation is on preponderance of probability. The Claimants relied upon the police papers which indicate that driver of the offending vehicle was charge-sheeted. Admittedly no evidence was led by the Insurer to show any negligence on the part of the deceased in occurrence of the accident.

5. In so far as contention of the learned counsel for the Appellant is with regard to the documents placed on record by Claimants were required to be considered is concerned the said documents unless are proved, could not have been relied upon by the Tribunal.

6. As far as claim of the Claimants with regard to the loss of dependency, it is stated by Claimants that deceased was 32 years old and was doing masonry work and was earning Rs.500/- to Rs. 700/- per day. Learned Tribunal however has held that in absence of any evidence to support the said claim, the notional income needs to be considered at the rate of the 9% p.a. The said notional income as accepted is not excessive. The Tribunal has arrived at the calculation of compensation by adopting appropriate multiplier. The order of grant interest by the Tribunal to extent of 9% p.a. is not perverse of in order to cause interference therein.

7. In view of above discussion, there is no merit in the appeal.

8. Appeal stands dismissed.

9. All pending applications, if any, stands disposed of.

(R. M. JOSHI, J.)