Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO. 31974 OF 2025
WITH
INTERIM APPLICATION NO. 13725 OF 2025
WITH
INTERIM APPLICATION NO. 13726 OF 2025
WITH
INTERIM APPLICATION NO. 13724 OF 2025
IN
FIRST APPEAL (ST) NO. 31974 OF 2025

Reliance Insurance Company Ltd. …Appellant
Versus
Sarika Shyamsingh Walmiki and Ors. …Respondents

Mrs. Kalpana Trivedi, for the Appellant.
Mr. Jitendra Gor, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 6th JANUARY 2026

PC:-

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

2. This Appeal filed under Section 173 of the Motor Vehicle Act, 1988 ('MV Act' for short) against the Judgment and Award dated 24th June, 2025, passed in MACP No. 64 of 2022.

3. The facts which led to the filing of this Appeal can be narrated in brief as under :

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It is the case of the claimant before the Tribunal that on 15/10/2021, the deceased was proceeding on his motorcycle bearing No. MH-05-DD-3842. When he reached to the spot of the accident, another motorcycle bearing registration No. MH-05-BT-1343 came in high speed in rash and negligent manner and dashed to the motorcycle of the deceased. In the said accident he sustained severe injuries and succumbed thereto on 22nd October, 2021. An offence came to be registered against the rider of the offending motorcycle being Crime No. 571 of 2021 with Ambarnath Police Station. The claimants contended that the deceased was employed with Facility Management Services Ltd., Pune and was earning Rs.20,000/- per month.

4. The owner of the offending vehicle filed Written Statement denying the negligence on the part of the rider of the said motorcycle in occurrence of the accident. It is claimed that the offending vehicle was insured with opponent No.2 at the relevant time. The Opponent-Insurer filed Written Statement at Exh. 17 accepting the coverage of the liability of insured in respect of the offending vehicle during the relevant period. The contentions of the claimant with regard to the occurrence of the accident, however, came to be denied. It is further claimed that the rider of the offending motorcycle was not holding valid and effecting driving licence and as such, there is breach of terms and conditions of insurance policy.

5. Before the Tribunal the claimants led evidence of Sarika at Exh. 19 and placed reliance on the police papers and the copy of charge-sheet. The insurer examined Legal Manager Mr. Rohit Prasad at Exh. 41 and also placed reliance on documentary evidence. The Tribunal allowed the claim, hence, this Appeal.

6. Learned Counsel for the Appellant submits that the Tribunal has failed to take into consideration the facts as they are appearing from the evidence on record indicating the contributory negligence of the deceased in occurrence of the accident. It is her submission that though no specific evidence has been led by the insurer to prove the said contentions, in view of the material on record and as two motorcycles are involved in the accident, the contributory negligence of the deceased be held therein.

7. On the point of breach of contention of policy, it is submitted that the insurer has examined the witness indicating that the driver of the offending motorcycle was not holding a valid licence during the relevant time. On the quantum, it is argued that the learned Tribunal has committed error in accepting the case of the claimant without proving the employment and income of the deceased.

8. On the other hand, learned Counsel for the Respondent/ original claimant supported the impugned Judgment and Award.

9. There is no dispute about the fact on 15/10/2021 an accident occurred involving motorcycles bearing registration No. MH-05-DD-3842 and MH-05-BT-1343. Owing to the injuries caused in the said accident, the deceased died on 22/10/2021 is also undisputed fact. The claimant No.1 examined herself and also placed reliance on the police papers including copy of charge-sheet. The said documents indicate that charge-sheet came to be filed against the rider of the offending motorcycle. There is nothing on record to show that the rider of the said motorcycle has challenged filling of charge-sheet against him. In absence of any specific evidence led by the insurer to show negligence of deceased, it is not possible to accept the contention with regard to the contributory negligence on the part of the deceased in occurrence of the accident.

10. As far the issue with regard to the breach of condition of insurance policy is concerned, though the insurer examined the witness, however, as rightly observed by the Tribunal that the evidence of the said witness is not sufficient to prove the contention of the insurer with regard to the non holding of valid driving licence by driver of offending vehicle. It was open for the insurer to examine the rider of the motorcycle to substantiate the said claim. In absence of any such evidence, contention of the Appellant deserves rejection.

11. With regard to the challenge to the quantum of compensation, it is pertinent to note that the Tribunal has accepted the Notional Income of the deceased at the rate of Rs.15,000/- per month. Having regard to the fact that the deceased was resident of Ulhasnagar with responsibility of four members of the family, the Notional Income accepted by the Tribunal at the rate of Rs.15,000/- per month is not excessive. The Tribunal has correctly arrived at the compensation by applying the correct principles for calculation thereof, such as, age, income and further prospects etc.

12. As a result of the above discussion, the Appeal sans merits.

13. 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.

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

(R. M. JOSHI, J.)