Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO. 31200 OF 2025
WITH
INTERIM APPLICATION NO. 13747 OF 2025
WITH
INTERIM APPLICATION NO. 13748 OF 2025
IN
INTERIM APPLICATION NO. 13747 OF 2025

Reliance General Insurance Co.Ltd. …Appellant
Versus
Nabanita Sujit Bardhan And Ors. …Respondents

Mrs. Kalpana Trivedi, for the Appellant.
Mrs. Rina Kundu, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 27th JANUARY 2026

PC:-

1. Learned Counsel for the respondents/claimants has filed on record compilation of documents. Taken on record.

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

3. This Appeal takes exception to the Judgment and Award dated 7th March, 2025, passed in Motor Accident Claim Petition No. 85 of 2015, whereby the learned Tribunal allowed death claim filed by the claimants and the owner and the insurer of the

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offending vehicle were directed to pay jointly and severally the sum of Rs.47,75,940/- alongwith interest @ 7% per annum from the date of petition till realization of the amount.

4. There is no dispute between the parties with regard to the fact that on 22nd February, 2015, an accident occurred involving motorcycle bearing Nos. MH-48-Y-6395 and MH-48-R-1299. In the said accident deceased died.

5. The present Appeal has been filed by the insurer taking exception the quantum of compensation. Learned Counsel for the insurer submits that the Tribunal has committed error in not considering the pleadings of the claimant wherein it is claimed that the deceased was earning Rs.50,000/- per month whereas, the evidence of the claimant indicates that this amount was never earned by him. Attention of the Court is also drawn to the evidence of Witness No.2-Ramanuj Kumar Sinha, Exh. 21, to claim that from the cross-examination of this witness it can be seen that the evidence led before the Tribunal is not sufficient to hold that the income of the deceased was Rs.35,325/- as accepted by the Tribunal. According to her, only on the basis of one salary slip and Form 16 for a singular year, the Tribunal ought not to have accepted the income of the deceased and at the most could have considered notional income.

6. Learned Counsel for the respondents/claimants supported impugned Judgment and Award. She, however, contends that the Tribunal has committed error in not granting interest from the date of claim filing of claim petition in respect of future prospects, which requires correction.

7. Needless to say that the claimants are required to prove their claim on preponderance of probability. The claimants have pleaded about the employment of the deceased with M/s. Durian Industries Ltd. To support the said claim, the claimants examined Ramanuj Kumar Sinha, who has deposed in respect the salary slip issued to the deceased for the month of December 2014 and January 2015. Similarly, he proved Form 16 for the Assessment Year 2015-2016. During the cross-examination, though, the insurer was able to bring on record that except for the salary slip of December 2014 and January 2015, there is no other evidence led by the claimant, it is pertinent to note that the claimants were required to prove their case on probability and not by proof of criminal trial. Having regard to the evidence on record, more particularly, the salary slip for two months prior to the death of the deceased and the Form 16, the claimants have succeeded in proving the income of the deceased. The gross income of the deceased is Rs.35,325/-. The deductions in respect of Provident Fund, Advance Loan, etc. are not permissible. The only deduction available is towards professional tax, which is Rs.200/-.

8. The amount of salary to be considered for recovery of computation of compensation would be Rs.35,125/- per month. The calculation of the compensation done by the Tribunal therefore needs correction. The Appeal, therefore, deserves to be allowed partly.

9. Insofar as the interest on the amount of compensation is concerned, this Court finds substance in the contention of the Counsel for the claimants that the Tribunal ought to have granted interest @ 7% per annum from the date of claim petition and not from the date of order impugned.

10. Needless to say that the claimants were entitled to receive compensation from the date of claim petition itself. The claimants are entitled to receive additional amount of Rs.82,856/- at the rate of 7% per annum from the date of filing of claim petition till realization of amount, which is as follows:

Particulars	**Amount in Rs.**
Dependency Rs.30,441/- per month x 12 months x 13 multiplier	= Rs. 47,48,796/-
Consortium for 2 – Rs. 40,000/- each	= Rs. 80,000/-
Loss of Estate	= Rs. 15,000/-
Funeral Expenses	= Rs. 15,000/-
Total	= Rs. 48,58,796/-
Less: Amount granted by Tribunal	= Rs. 47,75,940/-
Enhanced Amount	= Rs. 82,856/-

11. As a result of above discussion, the following order is passed:

ORDER

a) The Appeal is partly allowed.

b) The claimants are entitled to receive Rs. 82,856/- jointly and severally from the original opponent with interest at the rate of 7% per annum from the date of filing of claim petition till realization of amount.

c) The appellant is directed to deposit the additional amount along with accrued interest thereon within four weeks from the receipt of this order.

d) The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

e) The statutory amount be transferred to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

12. Pending applications, if any, stand disposed of.

(R. M. JOSHI, J.)