



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1370 OF 2019

- 1 Aditya Ramchandra Patil
Age : 3 years, Occ. Nil
- 2 Pranav Ramchandra Patil
Age : 3 years, Occ. Nil
Nos. 2 and 3 being minor through their Guardian
Appellant No.3
- 3 Akkatai Shankar Patil
Age : 60 years, Occ. Household
All are R/o. Village Chafodi
Tal. Karvir, Dist. Kolhapur

... Appellants

Versus

- 1 Yuvraj Bhivaji Patil
Age : Major, Occ. Business
R/o. Village Chafodi, Tal. Karvir, Dist. Kolhapur
- 2 The New India Assurance Co. Ltd.
Divisional Office: Near Vateshwar Road,
Station Road, Kolhapur
- 3 Ramchandra Shankar Patil
Age : Major, Occ. Labour
R/o. Village Chafodi, Tal. Karvir, Dist. Kolhapur

... Respondents

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Mr. Avesh Ghadge i/b. Mr. Akshay Shinde, Advocate for the Appellants.

Ms. Poonam Mital, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATED : 23rd JULY, 2025.

ORAL JUDGMENT :

1. This appeal is preferred by the appellants /claimants against the dismissal of the claim petition.

2. It is contention of learned counsel for the appellants that the deceased was travelling on bike with her husband and children. While proceeding on bike, her saree got entangled in the chain of the motorcycle, due to which the motorcycle slipped on the road, and the deceased along with her husband and children fell on ground. The deceased sustained serious injuries and died while taking treatment. The offence was registered against the husband of the deceased. Learned counsel further submitted that the deceased died while travelling on bike. It was accidental death, but the Tribunal has not considered this fact and has dismissed the claim petition on the ground that there was no accident of the vehicle and accident occurred due to sole negligence of the husband of the deceased, which is erroneous. Learned counsel further submitted that the deceased was doing milk business and earning Rs.4,000/- p.m. from the said business but the Tribunal has not awarded compensation. Hence requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.2/Insurance Company that four persons were travelling on the bike, which was not permitted. The saree of the deceased got entangled in the wheel of the bike, due to which bike slipped on road, the deceased sustained injuries and died. So, it cannot be considered as an accident as there was no involvement of the other vehicle in the said act. There was

breach of terms and conditions of insurance policy as four persons were riding on the said bike. The Tribunal has passed well reasoned order, no interference is required in it. Hence requested to dismiss the appeal.

4. I have heard both the learned counsel, perused Judgment and order passed by the Motor Accident Claims Tribunal, Kolhapur (for short “the Tribunal”). It is claimants’ case that on 03.08.2011 at about 4:30 p.m., the deceased along with her husband Ramchandra Patil was proceeding towards Waghapur from Chafodi on motorcycle bearing No. MH-09/BJ-434. Her husband was riding the motorcycle, whereas the deceased was a pillion rider and their two minor sons were travelling with them on bike. While they were proceeding on the road, due to the fast flow of wind, the saree of the deceased got entangled in wheel of bike causing all of them to fall along with the motorcycle. In the said accident, the deceased suffered injury to her head. She was shifted to the hospital, but declared dead.

5. To prove income of the deceased, the claimant No.3- Smt. Akkatai Patil, mother in law of the deceased has examined herself. She has stated that the deceased was doing milk business and she was supplying milk to Shri. Mahadeo Sahakari Dughadh Yavsaik Sanstha, Mandare and was getting Rs.4,000/- per month. Nothing elicited in cross examination of this witness. The claimants have examined PW-2 Krushnat Chavan, Secretary of Mahadeo Sahakari Dughadh Yavsaik Sanstha, Mandare at Exhibit-40. He

stated that the deceased was a member of their Doodh Sansthan, she used to supply milk to Sansthan and she was getting Rs.3,700/- to Rs.3,800/- per month. The milk supply bills are produced at Exhibit-41. In my view, it has been proved that the deceased was supplying milk to milk dairy, considering this fact, I am considering Rs.2,000/- as monthly income of the deceased.

While dealing with the issue of negligence, the Tribunal has observed that the police papers produced on record shows that on the fateful day, the fag end of the saree of the deceased got entangled in the rear wheel of the said motorcycle. As a result, the rear wheel got jam, causing said motorcycle to skid. At the relevant time, there were in all four occupants on the said motorcycle. The Tribunal has held that the claimants have not proved rash and negligent driving of the husband of the deceased. There is no question to grant any compensation on that ground, the Tribunal has dismissed the claim petition.

I am unable to understand the observations of the Tribunal. Admittedly at the time of accident, the bike was insured with the Insurance company and the insurance of pillion rider was covered in the said insurance policy. The term accident is not defined in the Motor Vehicles Act. As per the Lexis Nexis, "Accident" means, 'a sudden unforeseen or unexpected event causing harm to a person. In my view, accident includes,

collision, over turning or slipping. It is not necessary to have involvement of other vehicle to cause an accident like in present case.

Admittedly, the deceased was going on motorcycle and her saree got entangled in the rear wheel of the motorcycle and she fell on the road. It shows that, the death of the deceased was an accident. At the time of accident, the motorcycle was insured with respondent /Insurance Company. The accident caused due to use of the motorcycle, hence Insurance Company is liable to pay the compensation. Though four persons were travelling on the bike, but it has come on record that the deceased, her husband and their two minor children around three years of age were travelling with them, so it cannot be considered as breach of terms and conditions of insurance policy.

5. Considering the above reasons, the claimants are entitled for following compensation.

Particulars	Rs.	Amount
Monthly Income	Rs.	2,000/-
40% future prospects	Rs.	800/-
Multiplier 18 (2800 X 12 X 18)	Rs.	6,04,800/-
Consortium (48000 X4)	Rs.	1,92,000/-
Loss of Estate	Rs.	18,000/-
Funeral Expenses	Rs.	18,000/-
Total	Rs.	8,32,800/-
Amount awarded by Tribunal	Rs.	50,000/-
Enhanced compensation	Rs.	7,82,800/-

6. In view of above, I pass following order:

ORDER

- i. The appeal is allowed.
 - ii. The claimants are entitled for enhanced amount of Rs.7,82,800/- with @7.5% interest per annum from the date of filing claim petition till realisation of the amount.
 - iii. The Insurance Company shall deposit the amount of compensation along with accrued interest thereon within eight weeks from the receipt of this order.
 - iv. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - v. The claimants shall pay deficit court fees on enhanced amount, as per rule.
 - vi. R & P be sent back to the Tribunal.
8. The appeal is disposed of. All pending applications, if any, also disposed of.