IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

FIRST APPEAL NO.2631 OF 2018
WITH CA/8175/2018

HDFC ERGO General Insurance Co. Ltd.,
Through it's Branch Manager/Authorized Signatory,
1st Floor, Renuka Complex,
Nirala Bazaar, Nageshwarwadi, Aurangabad
Tq. & Dist. Aurangabad. ..Appellant

VERSUS

1) Asha Dattu Sonawane,
Age: 26 Years, Occu: Household,

2) Tanmay Dattu Sonawane,
Age: 6 years, Occu: Nil,

(Respondent Nos.2 being minor U/g.
of Respondent No.1 i.e. mother)

3) Sunandabai Hiraman Bua @ Sonawane,
Age: 69 Years, Occu: Household,

4) Hiraman Jagannath Bua @ Sonawane,
Age: 65 Years, Occu. Nil,
All R/o. Nyahlod, Dhule,
Tal. & Dist. Dhule,

5) Dinesh Fulchand Pardeshi,
Age: Major, Occu. Business,
R/o. Plot No.11, Khaddajin Badgujar Plot,
Parola Road, Dhule,
Tq. & Dist. Dhule. ..Respondents

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Advocate for Appellant : Mr. Mohit R. Deshmukh
Advocate for Respondent Nos.1 to 4 : Mr. S.S. Patil

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CORAM : ROHIT W. JOSHI, J.
DATED : AUGUST 31, 2026

ORDER :

1. Respondent nos.1 to 4, being widow, daughter and parents

respectively of one Dattu Hiraman Sonawane, filed Application (ECA) No.70 of 2016 on account of his demise, purportedly during course of employment as a driver with respondent no.5. It is the case of respondent nos.1 to 4 that deceased was employed as driver with respondent no.5 and on 20.08.2016, while he was driving truck owned by respondent no.5, at around 10:30 p.m., he fell ill and was required immediate medical attention. It is stated that he died within a span of three hours on 21.08.2016 at about 01:30 a.m. It is stated that the death has occurred due to stress and strain of continuous driving. Respondent no.5/employer admitted that deceased was employed by him as driver and stated that the monthly wages of the deceased were Rs.8,000/-. It was also admitted that he died during course of employment. The vehicle was insured with the present appellant. The present appellant took a stand that the deceased died as a natural death and, therefore, the claimants were not entitled to claim compensation on account of his demise. The contention is raised that the employer had not insured the employee for the claim under the Employees Compensation Act, 1923. It is contended that admittedly the deceased did not expire while he was actually driving for his employer, respondent no.5. Learned Compensation Commissioner has allowed the claim by judgment and order dated 14.03.2018 holding the employer/respondent no.5 and present appellant/insurance company

jointly and severally liable to pay amount of compensation of Rs.8,61,120/- towards compensation.

2. The contention of Mr. Mohit Deshmukh, learned Advocate for the appellant/insurance company is that the death of deceased/driver has not arisen out of employment. His contention is that there is no causal connection between the demise of deceased and his employment. Learned Advocate places reliance on the judgment of this Court in the case of ***HDFC Ergo General Insurance Company Limited Vs. Pandurang Hiraman Patil and Another (First Appeal 1433 of 2019) decided at Aurangabad Bench on 20.10.2023***, and another decision of Hon'ble Supreme Court in the case of ***Dilip Agarwal Vs. Rajshri Agarwal and others*** reported in ***2026 SCC Online SC 1374***.

3. In the case of **Pandurang Hiraman Patil** *(supra)*, the deceased was employed as a cleaner on the truck. The truck was parked during night time when the driver and cleaner halted for night stay. The cleaner was found dead by the driver in the cabin of truck in morning on the next day. In such circumstances, the dependents of the deceased cleaner lodged claim under the Employees Compensation Act against employer and insurance company. Taking an overall view of several decisions on the point, this Court recorded that in order to entertain a claim for payment of compensation under the Employees Compensation Act, causal connection between employment and death must be

established on the basis of material available on record. In the facts of that case where the employee was murdered during night halt of the truck, this Court arrived at a conclusion that there is no connection between death of the employee and his employment. In the peculiar facts of that case, holding that the death was not caused during the course of employment, this Court held that the case was not one of accidental death and accordingly allowed the appeal.

4. In the case of **Dilip Agarwal** *(supra)* decided by the Hon'ble Supreme Court, a claim was lodged seeking compensation under Section 166 of Motor Vehicles Act, 1988. The deceased was travelling in a motor car and was kidnapped and murdered in the motor car. It is in this set of facts that the claim for compensation under Section 166 was lodged by his dependents, the Hon'ble Supreme Court has held that such a case of murder would not mean that the death had occurred out of use of motor vehicle. The claim of the dependents was therefore dismissed.

5. Mr. Mohit Deshmukh strongly argues that in the present case as well, although the deceased/employee was plying the truck, the death has not occurred during the course of employment, in-as-much as he has de-boarded the truck and died thereafter while he was actually not plying the vehicle.

6. The fact that the deceased was employed as driver with

respondent no.5 is established. It is also proved that on 20.08.2016, he was plying a truck as an employee of respondent no.5. The material on record indicates that at around 10:30 p.m. he got down from the truck since he was not feeling well, leaving the same with his co-driver. The deceased had expired at around 01:30 a.m. on 21.08.2016. Thus, within a short period of three hours, the deceased expired, the cause of death being heart attack.

7. It is by now well settled that the heart attack during course of employment is also an accident arising during course of employment. The legal position in this regard is rightly considered by learned Compensation Commissioner by placing reliance on one such judgment by the Hon'ble Supreme Court in case of ***Param Pal Singh Vs. National Insurance Co. Ltd and another*** reported in ***2013 ACJ 526***. As regards the contention that the death has not occurred during course of employment, in the considered opinion of this Court, in the peculiar facts of the present case, although the deceased/driver was not actually driving the truck at the time of his demise, shortly before his demise, he was actually driving the vehicle. The medical situation that developed while he was driving the truck caused his death within a span of three hours. He was required to leave the truck due to medical condition that has developed while driving the truck during course of employment. In that view of the matter, it will not be possible to accept the contention

of learned advocate for the appellant/insurance company that the death is not on account of accident caused during employment. The medical condition which caused death had developed while the deceased/driver was driving the truck during course of his employment and he died shortly thereafter within a span of three hours.

8. In that view of the matter, it must be held that the death of the deceased has a causal connection with his employment i.e. driving of the vehicle. In view of the aforesaid, substantial question of law that is sought to be canvassed does not arise in the peculiar set of facts in the present case.

9. The appeal is therefore dismissed, with no order as to costs.

10. Civil Application No.8175 of 2018 stands disposed of.

[ROHIT W. JOSHI J.]

Mujaheed//