



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO.675 OF 2025

1. Chandanbala wd/o Rajendra Dugad,
Aged 55 years, Occupation-Household.
2. Rupesh s/o Rajendra Dugad,
Aged 29 years, Occupation-Education.
3. Siddharth s/o Rajendra Dugad,
Aged 22 years, Occupation-Education.

All R/o. Hanuman Ward Near
Shishak Sahakari Bank, Warora,
Tq. Warora, District-Chandrapur. .. Appellants

.. Versus ..

1. Sanjay Shyamsundar Chamedia,
Aged-Major, Occupation-Business.
R/o. Radha Kunja Near Satyanarayan
Mandir Ward, Pandharkawada,
Tq. Pandharkawada, District-Yavatmal.
2. Mohammad Jabir Mohammad Ismaile,
Aged 51 years, Occupation-Driver,
R/o. Momindpura Ward No.6 near
Ashiyana Hall, Wani, Tq. Wani,
District-Yavatmal.
3. Oriental Insurance Company Limited,
Through its Manager, 269 Shradha
Complex, Near Telephone Exchange
Nagpur, Also having its Branch Office
at Chandrapur, Tq. & Dist. Chandrapur.. Respondents

Mr. Anup J. Gilda, Advocate for Appellants.
Mr. Lalit Limaye, Advocate for Respondent No.3.

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CORAM : PRAVIN S. PATIL, J.
DATED : 27.08.2026.

JUDGMENT

1. Heard. With the consent of the learned counsel for the parties, this matter is taken up for final disposal.

2. In the present appeal, the original claimants approached before this court challenging the judgment and order dated 15.01.2024 passed by the Motor Accident Claims Tribunal, Warora, District-Chandrapur whereby the Claim Petition was dismissed.

3. It is the case of the present appellants that on 17.03.2019 the deceased father was proceeding by Honda Activa on Wani-Warora bypass road at about 19.30 hours, when he reached near Balaji Lawns, one Bus coming from Nagpur has given him a dash and due to the said dash, he has sustained serious injuries and succumbed to the same on next day i.e. 18.03.2019.

4. It is stated that on 18.03.2019 the First Information Report was lodged vide Crime No.307/2019 for the offence punishable under Section 279, 337 and 338 of the Indian Penal Code against the driver of the vehicle. At the time of registering the First Information Report, the vehicle number was recorded as MH-29-5551.

5. On the basis of this report, the investigation was conducted. After conducting the investigation, the chargesheet was also filed in the matter on 21.09.2019. In the chargesheet which was filed after conducting the investigation and recording the statement of persons, the correct number of offending vehicle was find out as MH-29-M-8404.

6. In the light of the submission of the appellants, it is stated that the learned Tribunal has wrongly dismissed the Claim Petition merely on the ground that the appellants failed to establish the offending vehicle was Bus No.MH-29-M-8404, accordingly the learned Tribunal held that the vehicle number was not properly disclosed in the Claim Petition, the claimants are not entitled for any compensation in the matter.

7. It is well settled position of law that the Claim Petition are filed on the basis of the registration of the offence by the police machinery. In the present matter, it is seen from the record that though in the First Information Report the number of the vehicle involved was recorded as MH-29-5551, after the investigation same was corrected as MH-29-M-8404 by the investigation officer. So also the appellants have entered into the witness box to establish this fact as well as examined one Rupesh s/o Rajendra Dugad to support the submission that the vehicle involved in the accident of was of MH-29-M-8404. As such sufficient proof was established on record by the appellants.

8. The learned counsel for the respondents, however, strongly opposed the present appeal. According to him, it is the primary burden of the appellants to establish before the Tribunal that which vehicle was involved in the matter. According to him, the First Information Report is the best document on the basis of which the offence is registered. It is pointed out that in the FIR, the Bus which was involved was bearing No.MH-29-5551. Therefore, considering this aspect of

the matter, the learned Tribunal has rightly considered the controversy in the matter and by recording the findings that the appellant failed to establish his case that the offending vehicle was involved in the matter, rightly dismissed the Claim Petition.

9. In the present matter, it needs to be considered that as per the law laid down by the Hon'ble Supreme Court of India in the case of *Bimla Devi and others .vs. Himachal Road Transport Corporation and others, reported in (2009) 13 SCC 530* and further judgment in the case of *ICICI Lombard General Insurance Company Limited .vs. Rajani Sahoo and others, reported in (2025) 2 SCC 599*, in which it is held that the case before the Tribunal has to be established on touchstone of preponderance of probability. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road accident.

10. In the present matter, it is seen that the respondent-insurance company though made all these submissions before this court that the appellants failed to establish their case, but

there are no efforts seems to be taken by the respondent-insurance company to establish the fact that the offending vehicle was not involved in the matter and the investigation which is done by the police machinery is incorrect. So also no evidence of any kind i.e. oral or documentary brought to the notice of Tribunal in support of submission. Only objection was raised without discharging the burden to prove the same. Learned Tribunal, in such circumstances, wrongly held that it is the burden of the appellants to establish his case and not of the respondents.

11. In the present matter, prima facie, from the police documents which are placed on record, it is seen that the police machinery after the investigation has corrected the vehicle number and on that basis registered the offence against the driver of the vehicle. Therefore, unless this fact is controverted or disproved by the respondents, there is no reason to disbelieve the charge-sheet which is placed on record.

12. In the present case, after going through the judgment of the learned Tribunal, it is seen that the learned Tribunal has not

considered all these aspects nor the insurance company has entered into the witness box to establish their submission before the Tribunal. As a consequence, the Claim Petition came to be dismissed in the matter, which according to me, is not justified in the facts and circumstances of the case. Accordingly, the following order is passed:

O R D E R

- (i) The appeal is allowed.
- (ii) The impugned judgment and order passed by the Member, Motor Accident Claims Tribunal, Warora, District-Chandrapur in Motor Accident Claim Petition No.11/2019 dated 15.01.2024 is hereby quashed and set aside.
- (iii) The proceeding of M.A.C.P. No.11/2019 are restored before the Motor Accident Claims Tribunal, Warora.
- (iv) Both the parties are at liberty to establish their case before the Tribunal and the Tribunal shall decide the Claim Petition as expeditiously as possible on its own merit.

(Pravin S. Patil, J.)