

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

First Appeal No. 228 of 2002

* Adivasi Vikas Mahamandal,
Branch Office, Dhadgaon,
Taluka & District Nandurbar
Through its Director/Manager. .. **Appellant.**

Versus

- 1) Tarubai W/o Ramala Bhil,
Age 40 years
Occupation : Household,
R/o Hagadikuli,
Taluka Dhadgaon,
District Dhule.
- 2) Subhanya Ramala Bhil,
Age 15 years, Minor,
Occupation :Student.
- 3) Saysing Ramala Bhil,
Age 13 years, Minor,
Occupation :Student.
- 4) Virsing Ramala Bhil,
Age 12 years, Minor,
Occupation :Student.
- 5) Amarya Ramala Bhil,
Age 11 years, Minor.
- 6) Zirsing Ramala Bhil,
Age 10 years, Minor.
- 7) Damadi Ramala Bhil,
Age 6 years, Minor.
- 8) Meena Ramala Bhil
Age 4 years, Minor.

Respondents 2 to 8 all
minors through their
mother guardian
respondent no.1.
All R/o Hagadikali,
Taluka Dhadgaon,
District Nandurbar.

- 9) Aantarsing s/o. Karamsing Padavi,
Age 38 years,
Occupation: Driver,
At present R/o Adivasi Vikas
Mahamandal, Bhadgaon,
District Dhule.

- 10) The Collector, Dhule,
Supply Branch Dhule.

.. Respondents.

Shri. N.B. Suryawanshi, Advocate, for appellant.

Shri. Shrikant S. Patil, Advocate, for respondents 1 to 8.

Shri. V.H. Dighe, Assistant Government Pleader, for
respondent No.10.

CORAM: T.V. NALAWADE, J.

DATE : 16th DECEMBER 2015

JUDGMENT:

- 1) The appeal is filed against the judgment and
award of Claim Petition No.398 of 1995 which was
pending before the Claims Tribunal Dhule. Present
appellant, owner, is held liable to pay the compensation in

respect of the death of one Ramala Bhil in motor vehicle accident. The owner has challenged the decision mainly on the ground that there is no convincing evidence to prove the involvement of the vehicle. Both the sides are heard.

2) The accident took place on 14-3-1995 at about 15.20 hours on Shahada-Khetiya road near Lonkheda College. The spot is situated within local jurisdiction of Shahada Tahsil Police Station. It is the case of the claimants that the deceased wanted to go to Nawapur to bring his son Virsing studying in a school at Nawapur and he was waiting for vehicle at Hagadikali Ghatali. It is contended that matador bearing No.MH-18/A-9991, which belongs to appellant, Adiwasi Vikas Mahamandal, Bhadgaon, Corporation created by the State Government, came there and lift was given to him. It is contended that original respondent No.1 Aantarsing Padavi was driving the vehicle at the relevant time. It is contended that at the spot of the accident due to rash and negligent driving of the matador by respondent No.1, the deceased fell out of the vehicle and he died due to injury sustained by him. It

is contended that respondent No.1 of the claim petition did not stop the vehicle and he did not give information to police. It is contended that subsequently the claimants learnt that the vehicle was of the present appellant.

3) It was contended that the deceased was working as labour and all the claimants, who were 8 in number, were dependent on the income of the deceased for their livelihood. Compensation of Rs. five lakh was claimed and the Tribunal awarded Rs. one lakh by the decision dated 10-3-2000.

4) Present appellant filed written statement and the driver also filed written statement. They denied involvement of the vehicle in the accident. The driver contended that false charge sheet was filed by police against him but he came to be acquitted in the case.

5) For proving the accident the claimants relied on police papers. Claimant No.1, widow, gave evidence. She learnt that the vehicle of the appellant was involved in the accident. She has no personal knowledge regarding

the accident. Admittedly police made investigation and traced out the vehicle and then charge sheet came to be filed against respondent No.1 of the claim petition. This record is not disputed. This record at Exhibits 66 to 69 shows that there were marks of tire of the vehicle and the deceased had come under the wheels of the vehicle. The blood was spread with the tire marks upto the distance of 5 to 7 feet. It is not disputed that the death took place due to injuries sustained in that accident. The record like inquest panchanama and post mortem report is there to prove this contention. It appears that statements of some eye witnesses were recorded by police who had given the description of the vehicle involved in the accident. However those witnesses are not examined. Copy of judgment delivered in criminal case is produced on the record and it shows that the witnesses turned hostile. The said case was decided on 14-7-1998. As against the aforesaid circumstances, respondent No.1 examined himself and he deposed that his vehicle was not involved in the accident. However, his evidence shows that his vehicle used to ply on that road as the office is situated in the same area. He has tried to say that he had gone to

Shahada and he had not gone towards that road. But he has not produced the log book which is required to be maintained by Government Department or Corporation of the Government.

6) In view of the aforesaid circumstances the Tribunal has held that vehicle of the present appellant was involved in that accident. It is clear that only after making investigation, police traced out the vehicle. Under the provision of Section 134 of the Motor Vehicles Act it is the duty of the driver of the vehicle to give report of the accident but the accident was not reported. Such cases are increasing day by day. In view of these circumstances and as the deceased was a tribal and the vehicle belonged to the Corporation created for tribals, there is probability as contended by the claimants. This Court holds that there is no possibility to interfere in the decision of the Tribunal. Meagre amount of compensation is granted by the Tribunal.

7) In the result, the appeal stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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