

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

**FIRST APPEAL NO.221 OF 2008  
( WITH CA No.2652 of 2016 in X-Obj.ST  
No.35471/2015 in FA No.221/2008  
with  
X-Obj.ST No.35471/2015 in FA No.221/2008)**

Mohammad Hanif S/o. Zindasab Alure,  
Age:55 years, Occu.:Service  
R/o. Ausa, Tq. Ausa, Dist. Latur

**...APPELLANT  
(Ori.Resp.No.3)**

**VERSUS**

1. Bhaurao S/o. Panchu Mete,  
Age:60 years, Occu.:Agri.,
2. Sow. Jankabai W/o. Bhaurao Mete,  
Age:55 years, Occu.:Household,
3. Smt. Majlasbai @ Pushpa  
W/o. Dattatraya Mete,  
Age:30 years, Occu.:Household,
4. Komalbai D/o. Dattatraya Mete,  
Age: Years/Minor,
5. Sagar S/o. Dattatraya Mete,  
Age:10 years/Minor,
6. Ableshwari D/o Dattatraya Mete,  
Age:7 years, Minor,

Respondent Nos.4 to 6 are being  
minors and they are under  
guardianship of their natural  
mother i.e. Majlasbai @ Pushpa  
W/o. Dattatraya Mete.

All R/o Village Chata, Taluka  
and District Latur

7. Goroba S/o. Ganpatrao Alate,  
Age:Major, Occu.: Driver,  
R/o. Karkatta, Taluka and  
District Latur
8. Mahadeo S/o. Tatyrao Mahalangikar,  
Age:53 years, Occu.:Agri.,  
R/o. Hatte Nagar, Latur

**...RESPONDENTS**

(Respondent No.1 to 6  
are original claimants  
in the claim-Petition)  
(Respondent No.7 and 8  
are original Respondent  
No.1 and 2 in the Claim  
Petition)

...

Shri P.K.Joshi, Advocate for the appellant.  
Mr.M.L.Dharashive, Advocate, for respondent nos. 1 to 6.

...

**CORAM: P.R.BORA, J.**

**DATE : September 21st, 2016**

**ORAL JUDGMENT:**

1. The present appeal is filed against the judgment  
and award passed by the Motor Accident Claims Tribunal,  
Latur, in MACP No.449/2000 on 14th of December, 2005.

2. The Tribunal has held the claimants entitled to receive the compensation amounting to Rs.4,53,000/- jointly and severally from opponent Nos. 1 to 3. Aggrieved thereby, Original Opponent No.3 has filed the present appeal. The impugned judgment is challenged by him only on the ground that on the date of the accident, he was not the owner of the offending motor cycle, and he had sold the said motor cycle much prior to the date of the accident to respondent no.7 and, as such, he could not have been held responsible for payment of compensation.

3. Learned Counsel appearing for the appellant, inviting my attention to the document at Exh.60 in the record of the trial Court, which is the statement of respondent no.7 recorded by Police, submitted that the aforesaid statement clearly reveals that respondent no. 7 had clearly admitted that he had purchased the motor cycle from the present appellant for consideration of Rs.12,000/- and he was making use of the said motor cycle as an owner on the date of the accident. Learned Counsel submitted that in view of such evidence before the Tribunal, in fact, no order could have been passed against

the present appellant. He has, therefore, prayed for setting aside the judgment and award to the extent of liability cast on the present appellant.

4. Learned Counsel further submitted that even otherwise, the compensation as awarded by the Tribunal is on higher side, and without there being any cogent evidence therefor. Learned Counsel submitted that though there was no sufficient evidence as about the income of the deceased and also as about the age of the deceased, the Tribunal has wrongly awarded compensation to the tune of Rs.4,53,000/-.

5. Shri M.L.Dharashive, learned Counsel appearing for the original claimants, has opposed the submissions made on behalf of the appellant. Learned Counsel submitted that, admittedly, the present appellant was the registered owner of the motor cycle involved in the alleged accident and, as such, he could not escape the liability of paying the compensation to the claimants. Learned Counsel submitted that the original claimants have successfully proved their claim and the Tribunal has rightly

awarded the compensation and has further rightly held all the respondents jointly and severally liable to pay the amount of compensation.

6. The original claimants have also filed the Cross Objection. However, after having perused the grounds raised in the Cross Objection, in the light of the impugned judgment, prima facie, I do not see any substance in the Cross Objection so filed. No case is made out for enhancement of the compensation. Similarly, the contention of the appellant also cannot be accepted that the Tribunal has awarded compensation on higher side or unreasonably.

7. The only question now remains to be determined is whether the present appellant can be held responsible for payment of compensation. The issue so raised is no more *res integra* in the light of the judgment of the Apex Court in the case **of Dr.T.V. Jose V. Chacko P.M. ( (2001) 8 SCC 748)**, wherein it has been held that the person who is registered owner of the vehicle

on the date of the accident cannot escape the liability of paying the compensation in the case. As such, I see no merit in the appeal. No interference is, therefore, called for in the impugned order. It was brought to the notice of the Court that the present appellant has deposited the amount of compensation falling to his share i.e. one third of the total compensation and as such the claimants cannot claim any more amount from the appellant and remaining amount, the claimants can recover from the other respondents. It need not be stated that when the liability is jointly and severally fixed, it is the choice of the claimants against whom to proceed for recovery of the amount. In the circumstances, it will be open for the claimants to proceed against all the opponents.

With the observations as above, The First Appeal (No.221/2008) stands dismissed. Civil Application (No.2652/2016) for condonation of delay in preferring X-Objection Stamp No.35471/2015 and the Cross Objection on Stamp also stand dismissed.

**(P.R.BORA)**  
**JUDGE**

AGP/ 221-08fa