

(1)

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

FIRST APPEAL NO. 882 OF 2014

1. Rashmi wd/o Navin Mangrulkar,
Aged about 34 years,
Occ: Service,
2. Krunali d/o Navin Mangrulkar,
Aged about 9 years,
Occ: Student,
3. Jay s/o Navin Mangrulkar,
Aged about 1-1/2 years,
Occ : Nil,
4. Ashok s/o Madhav Mangrulkar,
Aged about 70 years, Occ: Retired,
5. Anita w/o Ashok Mangrulkar,
Aged about 65 years,
Occ: Household,

Appellant Nos. 2 and 3 are minors
through Natural Guardian Appellant
No.1. All R/o. Friends Society,
Narendra Nagar, Nagpur. ..APPELLANTS

VERSUS

1. Mr. Shaib Majid Kagdi,
Aged : Major, Occ: Owner,
R/o. Tments 3rd Plot No.64,
Suhas Apparfloor, Bajaj Nagar,
Square, Near Javed Consultancy,
Shankar Nagar, Nagpur.
2. The Branch Manager,
The Bajaj Allianz General
Insurance Company Ltd., 219/221,
3rd Floor, Shriram Tower,
Kingsway, Sdar, Nagpur-440 001. ..RESPONDENTS

(2)

Mr P.S. Mirache, Advocate for appellants;
Mr D.N. Kukday, Advocate for respondent No.2

CORAM : N.W. SAMBRE, J.

DATE : 4th APRIL, 2017

ORAL ORDER :

The order dated 10th February, 2014 passed by learned Motor Accident Claims Tribunal, Nagpur pursuant to the provisions of Section 140 of the Motor Vehicles Act below Exhibit-5 is not sustainable and the tribunal is required to be considered and pass fresh order below Exhibit-5 for following reasons.

2. The tribunal has observed that AA form was not signed by the concerned police official, whereas perusal of Annexure-3 depicts, same bears seal and signature of the concerned police inspector, of which learned tribunal has lost sight of. Apart from above, the tribunal though has considered affidavit of driver, owner and final report filed by police, however, negligence on the part of deceased is not at all considered.

(3)

3. In view thereof, present appeal, in my opinion, needs to be allowed by remanding the same back to learned tribunal, who is directed to pass fresh order after hearing the parties in the backdrop of above referred observations. Parties to appear before tribunal on 18th April, 2017.

4. The appeal stands allowed in above terms.

(N.W. SAMBRE, J.)

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