

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 441 OF 2006

1. Ramprasad S/o Biharilal Rathi,
Age : 64 Years, Occ. Contractor,
R/o. Subhash Road, Beed
Dist. Beed.

...APPELLANT
(Orig. Res. No.1)

VERSUS

1. Pradeepkumar S/o Dwarkadas Mantri,
Age : 49 Years, Occ. Business,
R/o. Dhondipura, Beed.
2. Umardajkhan alias Miyabhai (Respondent No.2 abated)
S/o Mahboobkhan, as per order dt. 26.6.08
Age : 64 Years,
Occ. Private Service,
R/o. Bhaldarpura, Beed.
3. The United India Insurance Co.
Branch Office, Beed.
4. Ganeshlal S/o Harichand Katrella,
Age : 35 Years, Occ. Business,
R/o. Chousala, Tal and Dist. Beed.
5. Smt. Sarlabai W/o Dwarkadasji Mantri,
Age : 67 Years, Occ. Household,
R/o. Beed Dist. Beed.
6. Kum. Manisha D/o Dwarkadasji Mantri,
(Sau. Manisha W/o Nitin Kabra),
Age : 33 Years, Occ. Advocate,
R/o. Jalgaon

RESPONDENTS
(Original Respondent
Nos. 2 to 6)

....
Advocate for the appellant : Mr. S. P. Shah
h/f Mr. P. V. Barde
Advocate for respondent No.3 : Mr. S. V. Kulkarni

...

CORAM : S. G. DIGE, J.
DATE : 06.09.2022

ORAL ORDER :-

Challenge in this appeal is liability fastened on the appellant.

Brief facts of the case are as under :-

2. The alleged accident took place on 11th July 1987 on Beed-Gavrai road between Truck and scooter whereby person who was driving the scooter had suffered head injury and died due to injury sustained by him.

3. The original claimant i.e. respondent No.1 filed claim petition for getting compensation before Member Motor Accident Claim Tribunal Beed (for short " the Tribunal").

4. Considering evidence on record and after hearing the parties the Tribunal has passed judgment and order, which is under challenge.

5. It is contention of the learned counsel for the appellant that Tribunal has directed to pay the compensation to the appellant jointly and severally. The appellant is the owner of offending truck. Appellant has taken insurance policy

from respondent No.3 by paying requisite premium. When there is contractual liability between the appellant and respondent No.3, the Tribunal should not have fastened liability on appellant. Hence requested to exonerate the appellant from paying compensation and requested to allow the appeal.

6. It is contention of the learned counsel for the respondent No.3 that vehicle was insured with respondent No.3. As per the Judgment and order passed by the Tribunal, Respondent No.3 has deposited entire award amount before the Tribunal and the said amount is withdrawn by respondent No.1/ original claimant. Respondent No.3 has satisfied the award.

5. I have heard both the learned counsel. Perused the judgment and order passed by the Tribunal. The Tribunal has ordered to pay the compensation jointly and severally. It is contention of the learned counsel for the appellant that appellant is owner and his vehicle was insured with respondent No.3, so liability of paying compensation is lies with respondent No.3 and not with the appellant. Admittedly the award is satisfied by respondent No.3. The Award amount is withdrawn by the original claimant, respondent No.3 has not preferred any appeal. Respondent No.3 has not denied his contractual liability

hence appeal is denied of merit and I pass the following order :-

ORDER

- (i) Appeal is dismissed.
- (ii) No order as to costs.

**(S.G. DIGE,)
JUDGE**

ysk