

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

73 CIVIL APPLICATION NO.11213 OF 2023  
IN FA/2328/2023 WITH CA/7240/2023 IN FA/2328/2023

RATAN NAGNATH TATE AND ORS  
VERSUS  
THE BRANCH MANAGER, THE NEW INDIA INSURANCE CO.LTD AND ANR

...  
Advocate for Applicants : Mr. V.B. Deshmukh  
Advocate for Respondent 1 : Mr. S.S. Rathi  
...

**CORAM : ARUN R. PEDNEKER, J.**  
**DATED : 25/09/2023**

**PER COURT :**

1. The present appeal is filed by the Insurance Company against the order of Tribunal, which granted compensation as under :-

"1) Petition is partly allowed with proportionate costs.

2) Respondent No. 1 and 2 jointly and severally do pay the compensation amount of Rs.52,79,000/- (Rs. Fifty Two Lakh Seventy Nine Thousand only) including N.F.L. amount if any, to the claimants, on all counts with interest at the rate of 7% per annum from the date of filing the petition till the realization of the entire amount.

3) Claimant No. 1 shall be entitled to receive Rs.14,79,000/-, claimants No. 2 and 3 shall be entitled to receive Rs.11,00,000/- each and claimants No. 4 and 5 shall be entitled to receive Rs.8,00,000/- each.

4) From the share of claimant No. 1, 4 and 5, 50% amount (including interest on it till the deposit of the claim amount) be invested in a fixed deposit, in any Nationalized Bank for the period of 05 years and the remaining amount be paid to them by the mode of digital payment through their Nationalized / Scheduled Bank account.

5) The share of claimants No. 2 & 3 (along with interest on it till the deposit of the claim amount) be invested in a

fixed deposit, in any Nationalized Bank till they attains majority.

6) The claimants shall deposit the deficit court fees, if any within 10 days.

7) Respondents No. 1 and 2 shall jointly and severally deposit the above mentioned compensation amount along with accrued interst, with the Tribunal by R.T.G.S. mode in the Current Account No. 40460537496 having I.F.S.C. Code No. SBIN0020039 of the District Judge and Member M.A.C.T. Osmanabad, maintained with State Bank of India, Branch District Court, Osmanabad.

8) Award be drawn accordingly.”

2. The appellant has challenged the order of the Tribunal on the ground of non involvement of the insured vehicle on which the deceased was travelling. However, at para 14 and 15 the Tribunal has held as under :-

“14. The accident occurred on 13.07.2019. The inquest panchanama is prepared on 13.07.2019 at about 22.00 hours. The panchas and police have opined that the deceased Nagnath died due to a grievous head injury sustained by him in an accident. The police visited the spot of the accident on 15.07.2019 and prepared the panchanama of the scene of the accident. The panchas noticed that the road was 20 ft. East-West width and at the centre of the road they noticed blood stains on the road. The inquest panchanama vide Exh. 29 disclosed that the deceased Nagnath sustained a head injury above the right ear and blood oozed from it. This fact corroborates the fact of finding blood stains on the road at the scene of the accident. The F.I.R. is lodged on 17.07.2019 by Police Head Constable Janardhan Balkrushna Sirsat. The certified copy of the charge-sheet vide Exh. 40 disclosed that it was filed against CW-2 Satyajit Maruti Kamble. The P.M. notes in the charge sheet disclosed that the death of Nagnath occurred due to injury to vital organ brain i.e. head injury. Soon after the death, the Jagdalemama Hospital informed Barshi City Police Station about the death of Nagnath occurred in an accident.

15. From the oral as well as documentary evidence it clearly reveals that the death of Nagnath occurred in an accident. The evidence on record further disclosed that CW-2 Satyajit Kamble was driving the motorcycle. It is further proved that the death of Nagnath occurred due the rash and negligent driving of the driver of the suit motorcycle. Hence, issue Nos. 1 and 2 are answered in affirmative."

3. The Tribunal has categorically rendered a finding that the insured vehicle was involved in the accident.

4. Civil Application No. 11213/2023 is filed by the widow, children and parents of the deceased for withdrawal of amount deposited in this Court by the Insurance Company. In view of the findings of the Tribunal, I deem it appropriate that the applicants be permitted to withdraw 50% of the amount deposited in this Court along with the accrued interest thereon on usual undertaking to be given by the widow and parents to the satisfaction of the Registrar Judicial of this Court.

5. Ad-interim stay granted earlier is confirmed. Stay application is also disposed of.

6. Appeal is admitted.

7. On admission, learned counsel Mr. V.B. Deshmukh waives service of notice for original claimants.

9. Call R. & P.

**[ARUN R. PEDNEKER J.]**

ssc/