

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 521 OF 2021**

The New India Insurance Co. Ltd.)
R/o – Legal Cell,)
Nehru Memorial Hall Building,)
Camp, Pune.)Appellant

Versus

1. Shri.Ramdas Gopalrao Suryavanshi)
Age – 45 years, Occu: Service.)

2. Sou. Shobha Ramdas Suryavanshi)
Age: 45 years, Occu.: Household,)
Both R/at Rashtrabhasha Road,)Respondents
Sanewadi, Ward No. 31, Vardha) (Orig. Claimants)

3. Mr. Pandurang Shankar Shelke,)
Age – Adult, Occu: Business)
R/at-Sr. No. 46, Dharmanagar Road)
Behind Petrol Pump, Pune.) ...Respondent
(Orig. Opponent No.1)

Mr. Shubham Missar, Advocate for the Appellant.

Mr. Yuvraj Narvankar, Advocate for the Respondent Nos. 1 and 2.

CORAM : S. G. DIGE, J.

DATE : 1st FEBRUARY 2023.

Judgment :

1. Being aggrieved and dissatisfied with the judgment and

order passed by the Motor Accident Claims Tribunal, Pune,(for short “the Tribunal”) the appellant/original respondent No.2-Insurance Company preferred this appeal.

2. On 16th July 2010 at about 5.30 pm, the deceased Ms. Prajakta Ramdas Suryavanshi was proceeding from her company towards her residence at Matenagar Vadgaon Sheri. She was a pedestrian and was walking on the left side of the road. At that time, one mini bus bearing No.MH-02-T-278 which was proceeding towards tempo chowk in a very high speed gave dash to the deceased, who was crossing the road. Due to the severe dash, the deceased fell down on the road and the wheel of the bus ran over the head of the deceased. An offence was registered against the driver of the said bus. Respondent Nos.1 and 2/original claimants (short “the claimants”) filed a claim petition for getting compensation before the Motor Accident Claim Tribunal, Pune (for short “the Tribunal”).The Tribunal has awarded compensation. Against the said judgment and order, this appeal.

3. It is the contention of the learned counsel for the appellant that the Tribunal has granted exorbitant and excessive

compensation. The Tribunal has applied multiplier on higher side. No proper income proof of the deceased was produced before the Tribunal. Learned counsel further submits that the driver of the bus was not holding effective and valid driving license at the time of the accident. In fact, he was holding driving license of light motor vehicle, but he was driving a van, which had goods carriage permit i.e. commercial vehicle. But these facts are not considered by the Tribunal and the Tribunal has awarded the compensation. Hence, requested to allow the appeal.

4. It is the contention of learned counsel for the claimants, that the deceased was 24 years old at the time of the accident. The said accident had occurred due to sole negligence of the driver of the offending bus. The driver of the bus was holding driving license of light motor vehicle, which is valid driving license. He relied on the judgment of the Hon'ble Apex Court in **Mukund Dewangan (S) v. Oriental Insurance Company Limited 2017 AIR SC 3668.**

5. I have heard both learned counsel, perused the judgment and order passed by the Tribunal.

6. The issue involved in this appeal is that at the time of the accident, the driver was not holding effective and valid driving license. Admittedly, the driver of the bus was holding driving license of light motor vehicle. It is the contention of learned counsel for the appellant that if the offending vehicle was a mini bus i.e. transport vehicle, it cannot be considered as valid driving license. In the case of **Mukund Dewangan (Supra)**, the Hon'ble Apex Court has held that the license to drive light motor vehicle, includes license to drive transport vehicle. Hence, I do not find any merit in the contention of learned counsel for the appellant that at the time of the accident, the driver was not holding effective and valid license.

7. In respect of the income, the Tribunal has considered all the aspects and, on that basis, compensation is awarded, which is proper. I do not find any infirmity in it.

8. In view of the above, I pass the following order :

1. The appeal is dismissed. No order as to cost.
2. Respondent Nos.1 and 2/original claimants are permitted to withdraw the amount deposited by the appellant along with accrued interest thereon.

3. The statutory amount be refunded to the parties as per Rule.
9. All pending applications, if any, stand disposed of.

(S. G. DIGE, J.)