

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
FIRST APPEAL NO. 2331 OF 2007

1. Smt. Parvati Pandurang Sapkar
Age- 39 years, Occ-Household
R/o. Rile, Taluka Shirala, Dist. Sangli

2. Smt. Salubai Antu Sapkal, (Since deceased
through his legal heirs)

2A. Smt. Lilabai Nathu Shelke
Age- 75 Occ-Household,
r/o A/P. Punvat, Taluka Shirala, Dist. Sangli.

2B. Smt. Kalabai Ananda Harugade,
Age- 7, Occ-Household, R/o. A/P. Harugadewadi,
Tal-Shauwadi, Dist. Kolhapur.

3. Jayashree Pandurang Sapkal
Age- 22 yrs. Occ- Household
R/o. Rile, Tal- Shirala, Dist. Sangli.

4. Prakash Pandurang Sapkal
Age- 20 years, Occ- Agruculture
R/o. Rile, Tal. Shirala, Dist. Sangli.

5. Bajirao Pandurang Sapkal
Age- 18 years, Occ-Education,
R/o. Rile, Tal- Shirala, Dist. Sangli

....Appellants
(Org Claimants)

Versus

1. Raghunath Pandurang Mane (Aandalkar)
Age-Adult, Occ- Tractor Owner & Agriculture,
R/o. Punavat Tal Shirala, Dist. Sangli.

2. Sahadev Bandu Patil,
Age 29 years, Occ- Tractor Driver, r/o. Shirala
(Kurd), Taluka Shirala, Dist. Sangli.

3. United India Insurance Co. Ltd. Branch Islampur,
1638, Ganga Sadan, Patil Building Near Kacheri,
Islampur, Taluka Walva, Dist.Sangli.

... Respondents.

**WITH
FIRST APPEAL NO. 2312 OF 2007**

1. Smt. Drupada Shankar Sapkal
Age- 38 years, Occ-Household
R/o. Rile, Taluka Shirala, Dist. Sangli

2.Kum. Asmita Shankar Sapkal,
Age- 14 years, Occ- Education,
R/o. Rile, Taluka Shirala, Dist. Sangli

3. Kum. Surekha Shankar Sapkal
Age- 12 Occ-Education
R/o. Rile, Taluka Shirala, Dist. Sangli

4. Kum. Ananda Shankar Sapkal
Age- 10, Occ-Education,
R/o. Rile, Taluka Shirala, Dist. Sangli
(Appellant No. 2 to 4 being minor, through their Natural Guardian, Mother, Appellant No. 1)

....Appellants

Versus

1. Raghunath Pandurang Mane (Aandalkar)
Age-Adult, Occ- Tractor Owner & Agriculture,
R/o. Punavat Tal Shirala, Dist. Sangli.

2. Sahadev Bandu Patil,

Age 29 years, Occ- Tractor Driver, r/o. Shirala
(Kurd), Taluka Shirala, Dist. Sangli.

3. United India Insurance Co. Ltd. Branch Islampur,
1638, Ganga Sadan, Patil Building Near Kacheri,
Islampur, Taluka Walva, Dist.Sangli.

... Respondents.

Mr. Akil Kupade a/w Mr. Sushant Atmaram Khatake, Advocate for the
Appellant.

Mr. S. M. Bhavar a/w Mr. Anilkumar Patil, Advocate for the
Respondent No. 1

Mr. Mohit P. Turakhia a/w Adv Ishit Bhole a/w Adv. Asim Vidyarthi,
Advocate for the Respondent No. 3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th FEBRUARY, 2024.

ORAL JUDGMENT. :

1. These Appeals are preferred by the Claimants against the
dismissal of Claim Petition. Both these appeals are in respect of out of
same accident, hence I am deciding it by this common Judgment.

2. It is contention of learned Counsel for the
Appellants/Claimants, that both the deceased were traveling on motor
bike, they were dashed by the unknown vehicle. Thereafter, in
investigation police arrested the driver of offending tractor in
connection with the said crime but, this fact is not considered by the

Tribunal and has dismissed the Claim petitions filed by the Claimant, which is erroneous, hence requested to allow the Appeals.

3. It is contention of learned Counsel for the Respondent/Insurance Company that immediately after the accident, information was given by the injured person who was riding with the deceased on the said motor cycle. In the said complaint he has stated that their motorcycle was dashed by the unknown truck. After one month of the incident, the said injured person gave supplementary statement to the police stating that their motorcycle was dashed by the one tractor and he had given the registration number of the said tractor. It shows false involvement of the tractor in the said accident. Learned Counsel further submitted that in cross examination the said injured person Prakash Sapkal has admitted that he knows difference between truck and tractor. The Tribunal has considered all the aspects while passing Judgment and Order, no interference is required in it.

4. I have heard both learned Counsels, perused the Judgment and order passed by the Motor Accident Claims Tribunal, Islampur, (for short “the Tribunal”).

5. While dismissing the claim petitions the Tribunal has observed that initially information was given to the police that

motorcycle of the deceased was dashed by unknown truck. The police has recorded FIR on given information. Witness Prakash Sapkal was travelling with the deceased on that motorcycle. After one month he has given statement to the police stating that their motorcycle was dashed by the tractor and he had given registration number of the tractor, after one month of the incident. In cross examination this witness admitted that he knows difference between the tractor and truck. The Tribunal has observed that considering the evidence on record, it appears that tractor has been falsely involved in the said accident. I do not find infirmity in it. In my view it has not come on record that while giving supplementary statement after one month of the incident, Prakash Sapkal has stated to the police that inadvertently, he had stated in earlier information to the police that the motorcycle on which he was traveling with the deceased was dashed by tractor and not truck. Moreover after one month of the incident, he has informed the police about involvement of tractor with registration number, it appears doubtful.

6. In view of above, appeals are devoid of merits and I pass following Order.

ORDER

a) Both Appeals are dismissed. No Order as to costs.

7. All pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)