

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
FIRST APPEAL NO. 1131 OF 2017

Reliance General Insurance Company Limited The
 Divisional Manager, Mumbai Divisional Office, 4th
 Floor, Chintaman Avenue Near Vivani Industrial
 Estate, Eastern Express Highway, Goregaon (E)
 Mumbai – 400 063

....Appellant
 (Org. Insurer
 No. 1)

TALLE
 SHUBHAM
 ASHOKRAO

Digitally signed by
 TALLE SHUBHAM
 ASHOKRAO
 Date: 2024.02.02
 11:31:01 +0530

Versus

1. Shri. Shivaji Ganpat Khetle
 Hindu, Aged about 52 years Son of the deceased,
 R/o 3/48, Geeta Apartment Datar Colony, Mumbai
 400 042.

Org. Applicant

2. Mr. Achhelal Khanjhati Gupta 15, Ganesh
 Bhavan, Hariyali Village Bhavani Chowk, Vikhroli,
 Mumbai- 83.

Org Opposite
 party No. 1

3. Mr. Mario Pereira
 M/s Paulo Travels, G-1, Cardozo Building, Ground
 floor opp. Ambedkar Garden, Panjim Goa – 403
 001.

Org. Opposite
 party No. 2

4. New India Assurance Co. Ltd. New India
 Assurance Building 87, M.G. Road, Fort Mumbai-
 400 001.

Org. Insurer No.
 2
Respondents

WITH
FIRST APPEAL NO. 1129 OF 2017

Reliance General Insurance Company Limited The
 Divisional Manager, Mumbai Divisional Office, 4th
 Floor, Chintaman Avenue Near Vivani Industrial
 Estate, Eastern Express Highway, Goregaon (E)
 Mumbai – 400 063

....Appellant
 (Org. Insurer
 No. 1)

Versus

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|--|--|
| 1. Miss. Bhakti Vishnu Khetle
Hindu, Aged about 22 years Daughter of the deceased, | Org. Claimant
No. 1 |
| 2. Shri. Lalit Vishnu Khetle
Hindu, Aged about 20 years Son of the deceased
Above 2 R/at E, 23-24, Koli Chawl Parmar Guruji
Marg Parel, Mumbai 400 012. | Org Claimant
No. 2 |
| 3. Mr. Achhelal Khanjhati Gupta 15, Ganesh
Bhavan, Hariyali Village Bhavani Chowk, Vikhroli,
Mumbai- 83. | Org Opposite
party No. 1 |
| 4. Mr. Mario Pereira
M/s Paulo Travels, G-1, Cardozo Building, Ground
floor opp. Ambedkar Garden, Panjim Goa – 403
001. | Org. Opposite
party No. 2 |
| 5. New India Assurance Co. Ltd. New India
Assurance Building 87, M.G. Road, Fort Mumbai-
400 001. | Org. Insurer No.
2
....Respondents |

**WITH
FIRST APPEAL NO. 1247 OF 2017**

Reliance General Insurance Company Limited The Divisional Manager, Mumbai Divisional Office, 4 th Floor, Chintaman Avenue Near Vivani Industrial Estate, Eastern Express Highway, Goregaon (E) Mumbai – 400 063	Appellant (Org. Insurer No. 1)
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Versus

- | | |
|---|-------------------------|
| 1. Shri. Dattaram Mahadev Khetle
Hindu, Aged about 39 years Son of the deceased | Org. Applicant
No. 1 |
| 2. Shri. Nandkumar Mahadev Khetle
Hindu, Aged about 33 years Son of the deceased | Org Applicant
No. 3 |

- | | |
|--|--|
| 3. Digambar Mahadev Khetle
Hindu Aged 27 years Son of the deceased
Above all R/at Shiv Garjana Chawl, Tadvadi
Swadeshi Mill Road, Near Muknadevi Mandir Sion-
Chunabhatti, Mumbai 400 022. | Org. Applicant
No. 3 |
| 4. Mr. Achhelal Khanjhati Gupta 15, Ganesh
Bhavan, Hariyali Village Bhavani Chowk, Vikhroli,
Mumbai- 83. | Org Opposite
party No. 1 |
| 5. Mr. Mario Pereira
M/s Paulo Travels, G-1, Cardozo Building, Ground
floor opp. Ambedkar Garden, Panjim Goa – 403
001. | Org. Opposite
party No. 2 |
| 6. New India Assurance Co. Ltd. New India
Assurance Building 87, M.G. Road, Fort Mumbai-
400 001. | Org. Insurer No.
2
....Respondents |

**WITH
FIRST APPEAL NO. 1140 OF 2017**

Reliance General Insurance Company Limited The Divisional Manager, Mumbai Divisional Office, 4 th Floor, Chintaman Avenue Near Vivani Industrial Estate, Eastern Express Highway, Goregaon (E) Mumbai – 400 063	Appellant (Org. Insurer No. 1)
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Versus

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|--|-------------------------|
| 1. Smt. Pranita Pravi Khetle
Hindu, Aged about 26 years widow of the deceased
(Deleted) | Org. Applicant
No. 1 |
| 1. Shri. Maruti Sakharam Khetle
Hindu, Aged about 65 years Father of the deceased | Org. Applicant
No. 1 |

2. Mrs. Ratnaprabha Maruti Khetle
Hindu Aged 60 years Mother of deceased

Org. Applicant
No. 2

Above all R/at 1/16, Medhekar Chawl Meghwadi,
Jogeshwari (E) Mumbai 400 060.

3. Mr. Achhelal Khanjhati Gupta 15, Ganesh
Bhavan, Hariyali Village Bhavani Chowk, Vikhroli,
Mumbai- 83.

Org Opposite
party No. 1

4. Mr. Mario Pereira
M/s Paulo Travels, G-1, Cardozo Building, Ground
floor opp. Ambedkar Garden, Panjim Goa – 403
001.

Org. Opposite
party No. 2

5. New India Assurance Co. Ltd. New India
Assurance Building 87, M.G. Road, Fort Mumbai-
400 001.

Org. Insurer No.
2
....Respondents

**WITH
FIRST APPEAL NO. 1100 OF 2017**

Reliance General Insurance Company Limited The
Divisional Manager, Mumbai Divisional Office, 4th
Floor, Chintaman Avenue Near Vivani Industrial
Estate, Eastern Express Highway, Goregaon (E)
Mumbai – 400 063

....Appellant
(Org. Insurer
No. 1)

Versus

1. Shri. Kishore Suresh More
Hindu, Aged about 24 years Son of the deceased

Org. Applicant
No. 1

2. Miss. Kamal Suresh More
Hindu, Aged about 21 years daughter of the
deceased

Org Applicant
No. 2

Both R/o 2/27, New BDD Chawl B. J. Devrukhakar

Marg, Naigaum Mumbai 400 014.

3. Mr. Achhelal Khanjhati Gupta
15, Ganesh Bhavan, Hariyali Village Bhavani
Chowk, Vikhroli, Mumbai- 83.

Org Opposite
party No. 1

4. Mr. Mario Pereira
M/s Paulo Travels, G-1, Cardozo Building, Ground
floor opp. Ambedkar Garden, Panjim Goa – 403
001.

Org. Opposite
party No. 2

5. New India Assurance Co. Ltd. New India
Assurance Building 87, M.G. Road, Fort Mumbai-
400 001.

Org. Insurer No.
2
....Respondents

**WITH
FIRST APPEAL NO. 1132 OF 2017**

Reliance General Insurance Company Limited The
Divisional Manager, Mumbai Divisional Office, 4th
Floor, Chintaman Avenue Near Vivani Industrial
Estate, Eastern Express Highway, Goregaon (E)
Mumbai – 400 063

....Appellant
(Org. Insurer
No. 1)

Versus

1. Miss. Manisha Anant Khetle
Hindu, Aged about 26 years Daughter of the
deceased

Org. Applicant
No. 1

2. Shri Mandar Anant Khetle
Hindu, Aged about 23 years Son of the deceased

Org Applicant
No. 2

3. Abhishek Anant Khetle
Hindu, Aged about 23 years Son of the Deceased

Org-Applciant
No. 2

All r/o 3/48, Geeta Apartment Datar Colony, Ashok
Nagar Bhandup (E), Mumbai 42.

4. Mr. Achhelal Khanjhati Gupta

15, Ganesh Bhavan, Hariyali Village Bhavani
Chowk, Vikhroli, Mumbai- 83.

Org Opposite
party No. 1

5. Mr. Mario Pereira
M/s Paulo Travels, G-1, Cardozo Building, Ground
floor opp. Ambedkar Garden, Panjim Goa – 403
001.

Org. Opposite
party No. 2

6. New India Assurance Co. Ltd. New India
Assurance Building 87, M.G. Road, Fort Mumbai-
400 001.

Org. Insurer No.
2
....Respondents

**WITH
FIRST APPEAL NO. 1096 OF 2017**

Reliance General Insurance Company Limited The
Divisional Manager, Mumbai Divisional Office, 4th
Floor, Chintaman Avenue Near Vivani Industrial
Estate, Eastern Express Highway, Goregaon (E)
Mumbai – 400 063

....Appellant
(Org. Insurer
No. 1)

Versus

1. Miss. Manisha Anant Khetle
Hindu, Aged about 26 years Daughter of deceased

Org. Applicant
No. 1

2. Shri Mandar Anant Khetle
Hindu, Aged about 23 years Son of the deceased

Org Applicant
No. 2

3. Abhishek Anant Khetle
Hindu, Aged about 23 years Son of the Deceased

All r/o 3/48, Geeta Apartment Datar Colony, Ashok
Nagar Bhandup (E), Mumbai 42.

4. Mr. Achhelal Khanjhati Gupta
15, Ganesh Bhavan, Hariyali Village Bhavani
Chowk, Vikhroli, Mumbai- 83.

Org Opposite
party No. 1

5. Mr. Mario Pereira
M/s Paulo Travels, G-1, Cardozo Building, Ground
floor opp. Ambedkar Garden, Panjim Goa – 403
001.

Org. Opposite
party No. 2

6. New India Assurance Co. Ltd. New India
Assurance Building 87, M.G. Road, Fort Mumbai-
400 001.

Org. Insurer No.
2
....Respondents

**WITH
FIRST APPEAL NO. 1133 OF 2017**

Reliance General Insurance Company Limited The
Divisional Manager, Mumbai Divisional Office, 4th
Floor, Chintaman Avenue Near Vivani Industrial
Estate, Eastern Express Highway, Goregaon (E)
Mumbai – 400 063

....Appellant
(Org. Insurer
No. 1)

Versus

1. Miss. Bhakti Vishnu Khetle
Hindu, Aged about 22 years Daughter of deceased,

Org. Claimant
No. 1

2. Shri. Lalit Vishnu Khetle
Hindu, Aged about 20 years Son of the deceased
Above 2 R/at E, 23-24, Koli Chawl Parmar Guruji
Marg Parel, Mumbai 400 012.

Org Claimant
No. 2

3. Mr. Achhelal Khanjhati Gupta 15, Ganesh
Bhavan, Hariyali Village Bhavani Chowk, Vikhroli,
Mumbai- 83.

Org Opposite
party No. 1

4. Mr. Mario Pereira
M/s Paulo Travels, G-1, Cardozo Building, Ground
floor opp. Ambedkar Garden, Panjim Goa – 403
001.

Org. Opposite
party No. 2

5. New India Assurance Co. Ltd. New India
Assurance Building 87, M.G. Road, Fort Mumbai-

Org. Insurer No.
2

400 001.

....Respondents

**WITH
FIRST APPEAL NO. 1089 OF 2017**

Reliance General Insurance Company Limited The
Divisional Manager, Mumbai Divisional Office, 4th
Floor, Chintaman Avenue Near Vivani Industrial
Estate, Eastern Express Highway, Goregaon (E)
Mumbai – 400 063

....Appellant
(Org. Insurer
No. 1)

Versus

1. Shri. Dattaram Mahadev Khetle
Hindu, Aged about 39 years Son of the deceased

Org. Applicant
No. 1

2. Shri. Nandkumar Mahadev Khetle
Hindu, Aged about 27 years Son of the deceased

Org Applicant
No. 2

3. Digambar Mahadev Khetle
Hindu Aged 27 years Son of the deceased

Org. Applicant
No. 3

Above all R/at Shiv Garjana Chawl, Tadvadi
Swadeshi Mill Road, Near Mukta Devi Mandir Sion-
Chunabhatti, Mumbai 400 022.

4. Mr. Achhelal Khanjhati Gupta 15, Ganesh
Bhavan, Hariyali Village Bhavani Chowk, Vikhroli,
Mumbai- 83.

Org Opposite
party No. 1

5. Mr. Mario Pereira
M/s Paulo Travels, G-1, Cardozo Building, Ground
floor opp. Ambedkar Garden, Panjim Goa – 403
001.

Org. Opposite
party No. 2

6. New India Assurance Co. Ltd. New India
Assurance Building 87, M.G. Road, Fort Mumbai-
400 001.

Org. Insurer No.
2
....Respondents

Mr. Rahul Mehta, i/by KMC Legal Venture, Advocate for the Appellants in all matters.

Adv. Priyanka A. Babar, i/by Adv. Tejpal S. Ingale, Advocate for Respondents as stated below.

FA/1131/2017- For Respondent No. 1

FA/1129/2017- For Respondent Nos. 1 & 2.

FA/1247/2017- For Respondent Nos. 1 to 3.

FA/1140/2017- For Respondent Nos. 1 & 2.

FA/1100/2017- For Respondent Nos. 1 & 2.

FA/1132/2017- For Respondent Nos. 1 to 3.

FA/1096/2017- For Respondent Nos. 1 to 3.

FA/1133/2017- For Respondent Nos. 1 & 2.

FA/1089/2017- For Respondent Nos. 1 to 3.

Ms. Poonam Mital, Advocate for the Respondents as stated below:-

FA/1131/2017- For Respondent No. 4

FA/1129/2017- For Respondent No 3.

FA/1247/2017- For Respondent No 6.

FA/1140/2017- For Respondent No 5.

FA/1100/2017- For Respondent No. 4.

FA/1132/2017- For Respondent No 6.

FA/1096/2017- For Respondent No 6.

FA/1133/2017- For Respondent No 5.

FA/1089/2017- For Respondent No.6.

CORAM : SHIVKUMAR DIGE, J.

DATE : 17th JANUARY, 2024.**ORAL JUDGMENT :**

1. The issues involved in all these appeals are same. These appeals are preferred against the judgment and order passed by Motor Accident Claims Tribunal, Mumbai, (for short “the Tribunal”). Hence, I am deciding these appeals by this common judgment.

2. It is contention of learned Counsel for the Appellant that accident occurred due to head-on collusion between two vehicle's i.e. Tavera Jeep and luxury bus it was composite negligence but the Tribunal has fixed liability only on driver of Tavera Jeep which is not proper. Learned Counsel further submitted that driver of Tavera Jeep was not holding valid and effective driving license at the time of a accident. Sufficient evidence was produced on record to show that the accident occurred due to negligence of driver of luxury bus. But this fact is not considered by the Tribunal. Hence, requested to allow the appeal.

3. It is contention of learned Counsel for the Respondents/ Claimants that the offence was registered against the driver of

offending vehicle, no witness is examined by the Appellant-Insurance Company to prove the defense taken by them. While passing Judgment and Order the Tribunal has considered all the aspects hence, no interference is required in it.

4. Learned Counsel for Respondent No. 6/New India Assurance Company. Ltd submits that the Tribunal has considered all the aspects on that basis Judgment and Order is passed.

5. I have heard all learned Counsels, perused the judgment and order passed by the Tribunal.

6. It is the Claimant's case that on 12/12/2010 the deceased alongwith her family members were going to their native Village Kutgiri, Tal. Guhagar, Dist. Ratnagiri, in Tavera Jeep No. MH-03-AM-6273. At that time offending luxury bus No. KA-01-AE-9978 came from opposite direction in very fast speed in rash and negligent manner and dashed the said Tavera Jeep. Due to the said dash occupants of the said Tavera Jeep including driver died on the spot. The offence was registered against the Driver of Tavera Jeep.

7. While dealing with the issue of negligence, the Tribunal has observed that, FIR was registered in Khed Police Station, against the Driver of Tavera Jeep. In FIR it is mentioned that Tavera Jeep

came on wrong side of the road and dashed the luxury bus therefore the offence was registered against him. On perusal of Spot Panchanama, it is clear that the accident occurred due to rash and negligent driving of the jeep driver. I do not find infirmity in it.

8. In my view, after inquiry police registered offence against driver of tavera jeep. The spot panchanama shows that Tavera Jeep gave dash to the Bus. Moreover, no witness was examined by the Appellant-Insurance Company to prove the negligence of driver of the bus. Hence, I do not see merit in the contention that there was contributory negligence of driver of Bus in the said accident.

9. The Appeals are devoid of merits. In view of above, I pass following Order:-

ORDER

- a) All Appeals are dismissed. No Order as to costs.
- b) The Claimants in all Appeals are permitted to withdraw the deposited amount along with accrued interest thereon.
- c) The statutory amount in all Appeals be transmitted to the Tribunal along with accrued

interest thereon. The parties are at liberty to withdraw it as per Rule.

10. All pending Interim/Civil Application(s), if any, stand (s) disposed off.

(SHIVKUMAR DIGE, J.)