

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 621 OF 2023

- | | | | |
|---|-------------------------------|---|----------------|
| 1 | Kanchan Rajendra Mane |) | |
| | Age: 43 years, Occu: Service |) | |
| | R/at: B/4, Anant Laxmi Hills |) | |
| | Near Water Tank, Sinhgad Road |) | |
| | Wadgaon Budruk, Pune-411041 |) | |
| 2 | Sheetal Rajendra Mane |) | |
| | Age: 23 years, Occu: Student |) | |
| | R/at: B/4, Anant Laxmi Hills |) | |
| | Near Water Tank, Sinhgad Road |) | |
| | Wadgaon Budruk, Pune-411 041 |) | |
| 3 | Aditya Rajendra Mane |) | |
| | Age: 19 years, Occ: Student |) | |
| | R/at: B/4, Anant Laxmi Hills |) | |
| | Near Water Tank, Sinhgad Road |) | |
| | Wadgaon Budruk, Pune-411 041 |) |Appellants |

Versus

- | | | | |
|---|---|---|-----------------|
| 1 | Ashok Abu |) | |
| | @ Abaji Mahanwar (owner/driver) |) | |
| | Age: Adult, Occu: Driver |) | |
| | R/at: I) S. No. 132, Urali Devachi |) | |
| | Tal: Haveli, Dist: Pune |) | |
| | ii) Yalawadi Post, Bijawadi, Tal: Man |) | |
| | Dist: Satara |) | |
| 2 | Shriram General Insurance |) | |
| | Address: i)E-8, RLLO, Industrial Area |) | |
| | Site Pura, Jaipur, Rajasthan-302002 |) | |
| | ii)Arora Towers, East Wing, |) | |
| | 3 rd Floor, Camp, Pune-411001. |) |Respondents |

Mr. Yuvraj Narvankar, Advocate for the Appellant.

Mr. Pandit Kasar, Advocate for the Respondent No.2

CORAM : SHIVKUMAR DIGE, J.

DATE : 9th JANUARY, 2024.

Oral Judgment :

1. Learned counsel for the appellant is seeking remand of this matter on the ground that though the driver of the offending tempo admitted that the accident occurred due to his vehicle, the Tribunal has not considered this fact and has held that there was no independent eye witness to the said incident and dismissed the claim petition, which is not proper.

2. It is contention of learned counsel for the respondent No.2- insurance company that the order passed by the Tribunal is legal and valid as initially an offence was registered against an unknown vehicle and, thereafter, the offending vehicle was involved in the accident. If this Court remands the matter, then, the issue of interest would arise as the claim petition was filed in the year 2018. Hence, requested to dismiss the appeal.

3. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Pune (for short “**the Tribunal**”).

4. It is the claimants' case that on 29th April 2014 at about 9.15 pm, deceased Rajendra was riding on his bike bearing registration No. MH-12-CG-3331. At the releavant time, Tata Tempo bearing registration No.MH-12-GT-6099 came from the opposite direction in rash and negligent manner and gave dash to the motorcycle of the deceased. Due

to said dash, deceased fell on ground and succumbed to injuries. The claim petition was filed by the appellants/claimants for getting compensation. The Tribunal has dismissed the claim petition on the ground that the investigating officer was not examined to prove various aspects of the investigation. No eye-witness was examined to prove the accident and the involvement of the offending tempo in the said accident. I am unable to understand the observations of the Tribunal. The driver of the offending vehicle was examined before the Tribunal, he has categorically stated about the accident that took place and he has stated that it had been occurred due to the negligence of the deceased. The offence was registered against the driver of the offending tempo but these facts are not considered by the Tribunal and has wrongly come to the conclusion that no evidence was produced on record. I find it fit case to remand for fresh hearing before the Tribunal. If claimants succeed in the claim petition, they are entitled for interest on the compensation amount from the date of filing of this appeal i.e. 19th October 2022.

5. In view of above, I pass following order :

O R D E R

1. The judgment and order dated 7th July 2022 passed by the Motor Accident Claims Tribunal, Pune, is quashed and set-aside. The matter is remanded back to the Tribunal for fresh hearing.
2. Both the parties can lead evidence in support of their

contentions, if they desired.

3. If the claimants succeed in the claim petition, they are entitled for interest on the compensation amount from the date of filing this appeal i.e. 19th October 2022.
4. As the accident is of the year 2014, the Tribunal is requested to expedite the matter as early as possible.
5. Record and Proceeding be sent back to the Tribunal.
6. Both the parties shall appear before the Tribunal on 5th February 2024.

The appeal is disposed off in above terms.

6. Pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)