



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

FIRST APPEAL NO.155 OF 2023

Appellant : : Reliance General Insurance Company Ltd.
(On R.A. Original Respondent No.2.) through its Authorized Signatory,
having Office at Ayodhya Building, 1st Floor,
119, Bajaj Nagar Square, Behind Akruit Furniture,
Nagpur.

– Versus –

Respondents : : 1) Ramkrushna s/o Gangaram Valake,
(Original Petitioner No.1) Aged about 58 years, Occu.: Cultivator
(Original Petitioner No.2) 2) Kantabai w/o Ramkrushna Valake,
Aged about 51 years, Occu.: Cultivator
(Original Petitioner No.3) 3) Pravin s/o Ramkrushna Valke,
Aged about 29 years, Occu.: Labour.

All r/o at Post Ridhora, Th. Katol, Dist. Nagpur.

(Original Resp. No.1) 4) Mr. Ajay P Thakur,
Aged about Major, Occu. Owner,
R/o H. No.776, Sonba Nagar, Nagpur.

Mr. H.N. Verma, Advocate for the Appellant.
Mr. K.P Mirache, Advocate for Respondent Nos.1 to 3.

CORAM : **M.W. CHANDWANI, J.**
DATE : **28th AUGUST, 2024.**

ORAL JUDGMENT :

Admit.

02. Permission to add ground in the memo of appeal is granted.

Accordingly, amendments be carried out forthwith.

03. This is an appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the impugned judgment and award dated 27/01/2020, whereby the Motor Accident Claims Tribunal, Nagpur (*hereinafter referred to as "Tribunal" for short*) directed the appellant and respondent No.4 to pay jointly and severally, compensation of Rs.10,52,000/- to the respondent Nos.1 to 3 along with interest at the rate of Rs.7.5% per annum from the date of petition till the realization of the entire amount, on account of death of deceased-Shubham Ramkrushna Valake in a vehicular accident that occurred on 03/06/2017.

04. Though various grounds have been raised, the appeal is pressed mainly on two grounds; firstly, the appellant could not participate in the proceedings due to negligence on the part of its Advocate and secondly, a vehicle bearing Registration No.MH-49-D-5106 was not involved in the accident.

05. Heard the learned Counsel for the appellant as well as respondent Nos.1 to 3.

06. Though, I am not impressed much with the ground raised in this appeal regarding non-participation of the appellant before the Tribunal, but the fact remains that the claim petition filed by respondent Nos.1 to 3 reveals

involvement of a vehicle bearing Registration No.MH-49-D-5106 at one place and Registration No.MH-49-D-5160 at another. Even the award depicts the vehicle number as MH-49-D-5106, rather, the Tribunal held that this vehicle was involved in the accident, however, the police case papers and the F.I.R. reveal that Vehicle No. MH-49-D-5160 was involved. This fact is not disputed by respondent Nos.1 to 3. Therefore, the findings of the Tribunal regarding involvement of vehicle No.MH-49-D-5106 is erroneous. Hence, it requires to be set aside and the appeal can be disposed of by remanding the matter back to the Tribunal for deciding the claim petition afresh.

07. In view of this, the following order is passed :

- i. The impugned judgment and award dated 27/01/2020 passed by the Tribunal is set aside.
- ii. The matter is remanded back to the Tribunal for deciding the claim petition afresh.
- iii. Respondent Nos. 1 to 3 will be at liberty to amend the claim petition.
- iv. After carrying out amendment in the claim petition, the appellant-insurer and respondent No.4 will also be at liberty to file their replies/written statements to the amended petition. The Tribunal shall decide the claim by giving opportunities of hearing to both the parties.

- v.** Since, the matter is an old one, the Tribunal is requested to dispose of the claim petition as early as possible preferably within four months from the date of the order.
- vi.** The parties to appear before the Tribunal on 9th September, 2024.
- vii.** Record and proceedings be sent back to the Tribunal
- viii.** The appellant has deposited the entire amount before this Court, out of which, 50% amount has been permitted to be withdrawn by respondent Nos.1 to 3, in fact, they have already withdrawn the said amount.
- ix.** The Registry is directed to remit the remaining decretal amount to the Tribunal, which shall be dealt by the Tribunal in terms of the award to be passed.
- x.** It is made clear, if the appellant is exonerated from the liability in the award passed by the Tribunal, respondent Nos. 1 to 3 shall return the amount of compensation to the appellant with interest as the Tribunal may deem fit.
- xi.** The appeal is disposed of in the aforesaid terms with no order as to costs.

(M.W. CHANDWANI, J.)