



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

FIRST APPEAL NO. 2422 OF 2020

M/s. Shriram General Insurance Company Ltd.  
10003 E-8, RIICO Industrial Area, Sitapura,  
Jaipur 302 022 and  
Local Office at C-1-2, 7 and 8, C Wing,  
First Floor, Chadrakiran Park, Govindnagar,  
Near Mumbai Naka, Nashik -  
Through its Manager (Legal)

... Appellant

Versus

1. Bhimshankar S/o. Karbhari Nagare,  
Age : 49 years, Occu. : Labourer,

2. Indubai W/o. Bhimshankar Nagare,  
Age : 45 years, Occu. : Labour,  
Both R/o. Panodi, Tq. Sangamner,  
Dist. Ahmednagar.

... Orig. Claimants.

3. Shrihari Shrivijay Gokhale,  
Age : Major, Occu. : Owner of Bus  
R/o. 532, Odha Shivar Nashik,  
Tq. & Dist. Nashik.

... Respondents.

.....

Mr. Anil P. Basarkar, Advocate for Appellants.

Mr. K. N. Shermale, Advocate for Respondent Nos.1 and 2.

.....

**CORAM : ABHAY S. WAGHWASE, J.**

**DATED : 15 JULY 2025**

**ORDER :**

1. Insurance company is taking exception to the judgment and award passed by learned Motor Accident Claims Tribunal, Sangamner, Dist. Ahmednagar in M.A.C.P. No.129 of 2015 dated 12.02.2019 party allowing the claim petition and awarding the compensation to the tune of Rs.23,81,000/-.

2. Learned counsel for Insurance Company would apprise this court the factual aspects of the appeal i.e. claimant's daughter taking education in II<sup>nd</sup> year engineering college, allegedly met with road traffic accident on 03.08.2015 on Nashik- Pune Highway, near village Bota, in which she suffered grievous injuries and succumbed to the same. Crime was registered against offending luxury bus driver and parents of deceased set up a claim of compensation to the tune of Rs.35,00,000/- with interest. That, after issuing notice, opponent nos.1 and 2 contested and resisted the claim petition on various grounds. That, after appreciating the oral and documentary evidence, learned Tribunal reached to a finding that claimants proved that driver of luxury bus MH-15-AK-7007, which was owned by opponent no.2, was driven by a driver in rash and negligent manner. That, however, learned Tribunal answered the point raised by Insurance company about breach of terms and conditions of policy in negative and granted compensation to the tune of Rs.23,81,000/-, which was directed to be paid by both opponent nos.1 and 2 jointly and severally.

3. Learned counsel submitted that, offending vehicle was not solely responsible. However, record shows that only learned counsel for opponent no.1 Insurance Company appeared and none

appeared for opponent no.2. Learned counsel for Insurance Company would submit that, basically claimants had failed to prove that accident was a result of rash and negligent driving as neither of the claimants were witness to it and only on the basis of spot panchanama, FIR and charge sheet, liability has been fastened on the luxury bus. It is his submission that, there was breach of condition of insurance policy, and therefore, Insurance Company is not liable to pay.

4. He further submitted that, deceased daughter of claimants was a student, and therefore, Tribunal ought not to have considered notional income to the tune of Rs.15,000/-, which is exorbitant. That, there was no basis for arriving or considering such income, wherein deceased was undergoing education. However, learned counsel fairly conceded that, in view of leaving certificate, age of deceased is not under dispute. For all above reasons, learned counsel seeks indulgence of this court.

5. Learned counsel for respondents claimants while supporting the judgment and award of Tribunal pointed out that there is no dispute as there is cogent and reliable evidence as regards to rash and negligence on the part of driver of luxury bus. He pointed out that, there was evidence in the form of leaving

certificate on the point of age of deceased. That, there is no dispute that she was undertaking education and was a student, but he pointed out she was studying in the engineering college and therefore, she had bright future and therefore he justifies consideration of Rs.15,000/- notional income and he also justifies quantum granted under various heads by the Tribunal and on this count, he takes this court through the observations from para no. 27 onwards. Lastly, he prays to dismiss the appeal for want of merits.

6. On re-appreciating the available evidence on record, this court is more than convinced that, there is sufficient material on the point of rash and negligent driving of luxury bus driver, which was insured with present appellant Insurance Company. Documentary evidence suggests that deceased Dipali was undertaking education in engineering college. Leaving certificate carries date of birth. Therefore, applying the law settled on the point of compensation in a case of student, learned Tribunal has granted notional income of Rs.15,000/-. This court is also convinced that consideration of such income per month is justifiable when admittedly deceased was studying and a student in engineering college.

7. After considering the calculations made by learned Tribunal from paragraph no.26 onwards, more particularly under specific heads reflected in paragraph no.35, this court finds that just compensation has been awarded. As no case for interference is made out, this court proceeds to dispose of the appeal as dismissed. Hence, the following order is passed :-

**ORDER**

- (i) The appeal stands dismissed.
- (ii) Compensation deposited with this court is allowed to be withdrawn along with accrued interest as entitled, if any.

**(ABHAY S. WAGHWASE, J.)**