



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1341 OF 2012

United India Insurance Co. Ltd.
Branch Jalna – Through Divisional Officer,
Branch Office – Chhatrapati Sankul,
1st Floor, Subhash Road, Beed.
Through its authorised signatory -
Divisional Manager At Aurangabad

... Appellant
(Orig. Resp. No.3)

Versus

1. Bhimrao s/o. Gopinath Hamne,
Age : 45 years, Occu. : Agriculture/Business,
R/o. Zipri, Tq. Ambad, Dist. Jalna.
Now R/o. Talwada, Tq. Georai,
Dist. Beed.

... Orig.Claimant

2. Pratap S/o. Meharban Rathod,
Age : Major, Occu. : Business,
R/o. Son Pimpalgaon Tanda,
Tq. Ambad, Dist. Jalna.

3. Bholaram S/o. Pratap Rathod,
Age : 24 years, Occu. : Driver,
R/o. Son Pimpalgaon Tanda,
Tq. Ambad, Dist. Jalna.

... Respondents.

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Mr. V. R. Mundada, Advocate for Appellant.

Mr. Y. K. Bobade, Advocate for Respondent No.1.

Mr. S. A. Deshmukh, Advocate for Respondent Nos.2 and 3.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 25 NOVEMBER 2025

PRONOUNCED ON : 27 NOVEMBER 2025

JUDGMENT :

1. In this appeal at the instance of insurance company/original

respondent no.3, there is challenge to the judgment and order dated 21.12.2011 passed by learned M.A.C.T, Beed in M.A.C.P. No. 89 of 2009 filed by present respondent no.1.

2. In nutshell, facts giving rise to the accident claim petition are that, on 29.03.2008, respondent no.1- original claimant Bhimrao alighted from State Transport Bus and was proceeding towards Zirpi Phata. At that time, he was given dash by tractor bearing no. MH-27-D-673 coming from opposite direction, as a result of which, claimant fell down and later on trolley attached to the tractor passed over his leg, crushing the same. His leg was required to be operated, and therefore, he set up claim petition by invoking section 166 of Motor Vehicles Act seeking compensation under various heads.

3. Respondent nos.1 and 2 filed written statement at Exh.20 and denied dash and injury. Respondent no.3 present appellant insurance company vide Exh.22 strongly resisted the claim denying negligence on the part of tractor driver. Insurance company set up a claim that injured himself was negligent. Specific defence was also taken that only tractor was insured and not the trolley, and therefore, insurance company is not liable to pay any compensation.

After appreciating the respective cases advanced by each of

the side, learned tribunal was pleased to partly allow the claim awarding compensation to the tune of Rs.5,90,502/- with interest at the rate of 12% per annum.

Feeling aggrieved by the above, insurance company has come up in appeal.

4. Learned counsel for insurance company Shri Mundada apart from placing written notes of arguments, would point out that, claim was set up under various heads to the tune of Rs.6,00,000/-. That, in fact, original respondent driver had denied his fault or negligence. That, claimant had failed to prove that there was sole negligence of the tractor driver. He would further point out that, though they are the insurer, insurance was only restricted to the tractor and not the trolley which was actually alleged to be involved in causing injury to the leg. Learned counsel emphatically submitted that, no distinct premium was paid towards the trolley attached to the tractor. In support of his contention, he submits that, under such circumstances, liability ought not to have been fastened on insurance company and he seeks reliance on the judgment of Hon'ble Apex Court in the case of ***Mukund Devangan v. Oriental Insurance Company Limited***, [AIR 2017 SC 3668].

5. He further emphasized that respondent no.2 driver was

armed with driving licence of tractor only and not permitted to carry transport goods. He also seeks reliance on the judgments of this Court in the cases of *The Manager, Bajaj Allianz General Insurance Co. Ltd. v. Mangala Shantaram Shewale and Others* in First Appeal No. 116 of 2011 as well as in the case of *National Insurance Co. Ltd. v. Sushila w/o. Niwarti Bande and others* in First Appeal No.250 of 1996.

For above reasons, learned counsel urges to set aside the impugned judgment and order passed by tribunal and prays to allow the appeal.

6. Above submissions are countered by learned counsel for respondent/original claimant by canvassing in favour of the judgment and order passed by tribunal. It is pointed out that, dash was given by tractor and same being insured, insurance company is liable to pay the compensation and learned tribunal has rightly done so. He seeks reliance on the judgment of Hon'ble Apex court in the case of *Nagashetty v. United India Insurance Co. Ltd., AIR 2001 SC 3356; Fahim Ahmad and Ors. v. United Indian Insurance Company*, AIR 2014 SC 2187.

7. The short question needs to be addressed is whether insurance company is liable to pay compensation in the light of involvement of tractor having trolley attached to it. Specific ground

raised in appeal is that both, tractor as well as trolley are distinct, insurance was only for tractor and not trolley. Learned counsel for appellant has placed reliance on the judgment of this court referred above. On the other hand, learned counsel for claimant, who justified the grant of compensation, has also relied on above two cases, which are apparently of the Hon'ble Apex Court.

8. For ready reference, the observation of the Hon'ble Supreme Court in the case of **Nagashetty** (Supra), are borrowed and reproduced herein :-

“10. We are unable to accept the submissions of Mr. S.C. Sharda. It is an admitted fact that the driver had a valid and effective licence to drive a tractor. Undoubtedly under Section 10 a licence is granted to drive specific categories of motor vehicles. The question is whether merely because a trailer was attached to the tractor and the tractor was used for carrying goods, the licence to drive a tractor becomes ineffective. In the argument of Mr. S.C. Sharda is to be accepted then every time an owner of a private car, who has a licence to drive a light motor vehicle, attaches a roof carrier to his car or a trailer to his car and carries goods thereon, the light motor vehicle would become a transport vehicle and the owner would be deemed to have no licence to drive that vehicle. It would lead to absurd results. Merely because ea trailer is added either to a tractor or to a motor vehicle by itself does not make that tractor or motor vehicle

a transport vehicle. The tractor or motor vehicle remains a tractor or motor vehicle. If a person has a valid driving licence to drive a tractor or a motor vehicle he continues to have a valid licence to drive that tractor or motor vehicle even if a trailer is attached to it and some goods are carried in it. In other words a person having a valid driven licence to drive a particular category of vehicle does not become disabled to drive that vehicle merely because a trailer is added to that vehicle.”

The Hon’ble Supreme Court of India in the case of **Fahim Ahmad**

(Supra) has observed as under :

“A perusal of the records shows that, at the time of the accident, a trolley was attached with the tractor, which was carrying sand for the purpose of construction of underground tank near the farm land for irrigation purpose(s). However, merely because it was carrying sand would not mean that the tractor was being used for commercial purpose and consequently, there was a breach of the condition of policy on the part of the insured. There is nothing on record to show that the tractor was being used for commercial purpose(s) or purpose(s) other than agricultural purpose(s), i.e., for hire or reward, as contemplated under Section 149(2)(a)(i)(a) of the said Act.”

9. Before the tribunal, claimant had adduced his own evidence at Exh.33 and has placed on record copy of FIR as well as spot panchanama Exhs.34 and 36 along with driving licence and insurance

policy. From the evidence of injured complainant, it is emerging that, he was given dash by the tractor and when he fell, later on the tyre of the trolley no.1 ran over his leg. Admittedly, trolley was attached to the tractor. Therefore, here, it is demonstrated that, dash in fact was given by the tractor which was driven by respondent no.2. Though the wheel of trolley attached to the tractor ran over the leg, both were in fact part and parcel of one vehicle.

10. In view of the observations of the Hon'ble Apex Court in the case of *Nagashetty* and *Fahim Ahmad* (supra), reproduced above, trolley is also required to be considered as a part of the tractor and though no distinct premium is paid or levied for the trolley, in the considered opinion of this court, insurance company is still liable to compensate the same and as such no fault can be found in the findings recorded by learned tribunal that insurance along with other respondents is liable to pay compensation.

11. For above reasons, there being no merits in the first appeal, I proceed to pass the following order :

ORDER

First Appeal is hereby dismissed.

(ABHAY S. WAGHWASE, J.)

12. After pronouncement of judgment, the learned counsel for respondent no.1 original claimant submits that he may be permitted to withdraw remaining amount.

13. In view of above submissions, respondent no.1 original claimant is permitted to withdraw remaining amount subject to furnishing usual undertaking, if any.

(ABHAY S. WAGHWASE, J.)