



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

FIRST APPEAL NO. 585 OF 2009

NEW INDIA ASSURANCE CO. LTD.  
VERSUS  
SUFIYABI KHADIR PATHAN AND ORS

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Advocate for Appellant : Mr. Kadethankar Ajit B.  
Advocate for Respondent Nos.1 to 6 : Mr. S. P. Sonwane h/f Mr.  
S. S. Thombre.

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CORAM : SHAILESH P. BRAHME, J.  
DATE : 07.04.2025

PER COURT :-

1. Heard learned counsels finally.
2. This appeal takes exception to the judgment and award dated 08.04.2008 passed by Motor Accident Claims Tribunal, Ambajogai in MACP No.35 of 2006 awarding compensation of Rs.4,15,000/- along with interest @ of Rs.7.5 p.a.
3. Learned counsel Mr. A. B. Kadethankar appearing for appellant submits that the Tribunal failed to appreciate the defence taken by the appellant as the entire episode of accident was fictitious and the driver was not holding valid licence. He would submit that learned Tribunal committed perversity because there was no evidence on record to show that the

deceased met with an accident in the manner as alleged in the claim petition. The evidence on record was inadequate. He would submit that it was the negligence deceased who was driving his two wheeler. He would further submit that the quantum arrived at mistakenly. Lastly, it is submitted that the award is liable to be quashed and set aside.

4. Learned counsel Mr. Sonwane holding for Mr. Thombre appearing for respondent Nos.1 to 6/claimants submits that there is no perversity or patent illegality in holding the insurance company liable and awarding compensation. It is submitted that the learned Tribunal considered the oral and documentary evidence on record and arrived at just and reasonable quantum. It is submitted that first information report was lodged and those papers were also produced on record. The insurance cover note shows that the liability of the insurance company is attracted.

5. I have considered rival submissions of the parties. It reveals from record that accident occurred on 20.02.2006 when the deceased was driving his motorcycle which collided with auto rickshaw insured with the appellant insurance company. The claimants examined two witnesses and produced the documents comprising all papers of investigation of the

police as the offence was registered with the concerned Police Station. Besides that the cover note of the insurance was also produce at Exh.36.

6. I have gone through the findings recorded by the Tribunal in paragraph Nos.7 and 8. Considering oral evidence as well as documentary evidence, the Tribunal arrived at conclusion that accident took place and auto rickshaw was insured with the insurance company. There was eye witness i.e. P.W.2 who was one of the passengers in the auto rickshaw. There is no reason to discard the documentary and oral evidence produced on record.

7. Considering the evidence on record, the Tribunal has arrived at plausible and just conclusion that deceased met with an accident and died and the driver of the auto rickshaw was responsible for that. The findings recorded on the basis of the papers of investigation cannot be faulted. I do not find that there is convincing material to accept the submission of the learned counsel for the appellant. As the insurance cover note is already on record, the defence of appellant/insurance company is rightly discarded by the Tribunal. I do not find any perversity or illegality in it.

8. Once the accident, death and liability of the insurance company are proved, there is no convincing material on record to take any contrary view in respect of the quantum. The quantum arrived at by the Tribunal is based on evidence. As the matter pertains to the beneficial legislation the Tribunal is justified in awarding the quantum.

9. For the reasons stated above, I do not find that the case is made out by the insurance company to cause interference in the impugned judgment and award. Hence, I pass the following order :

### **ORDER**

- (i) First Appeal is dismissed.
- (ii) No order as to costs.
- (iii) The balance amount with accrued interest shall be disbursed to respondent Nos.1 to 6/claimants.

**(SHAILESH P. BRAHME, J.)**

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vmk/-