



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1886 OF 2017

Kishan S/o Rawan Dhumal,
Age: 36 yrs, Occu: Business,
R/o. Sambhaji Nagar, Latur

...Appellant

Versus

1. Saraswati W/o Navnath Jadhav,
Age: 28 years, Occ. Agri. & H.H.
2. Shruti d/o Navnath Jadhav,
Age: 5 years, Occu: Nil,
3. Om S/o Navnath Jadhav,
Age: 3 years, Occu: Nil,

Respondent No. 2 & 3,
Minor U/G of Natural Mother,
Respondent No. 1.
All R/o. Chincholiraowadi,
Tq & Dist. Latur.

4. Balaji Madhavrao Mundhe,
Age: Major, Occu: Business,
R/o. Wanjarwadi, Tq. Renapur,
Dist. Latur
5. The New India Assurance Co. Ltd,
Through Its Branch Manager,
Branch Office, Latur

...Respondents

WITH
FIRST APPEAL NO. 1653 OF 2020

Balaji S/o Madhavrao Munde
Age: Major, Occu: Agri & Auto Driver,
R/o Vanjarwadi, Tq: Renapur,
Dist. Latur
(Insured Owner of MH-24-F-0509)

...Appellant

Versus

1. Saraswati W/o Navnath Jadhav,
Age: 29 years, Occ. Agri. & H.H.
2. Shruti d/o Navnath Jadhav,
Age: 06 years, Occu: Nil,
3. Om S/o Navnath Jadhav,
Age: 04 years, Occu: Nil,
Respondent No. 2 & 3 are minor U/G
of Natural Mother Respondent No. 1.
All R/o. Chincholiraowadi, Tq & Dist. Latur.
4. Kisan S/o Rawan Dhumal
Age: 37 years, Occu: Business,
R/o: Sambhaji Nagar, Latur
5. The New India Assurance Co. Ltd,
Through Its Branch Manager,
Branch Office, Latur

...Respondents

Mr. A. A. Joshi, Advocate h/f Mr. S. V. Natur, Advocate for Appellant in FA/1886/2017

Mr. G. L. Kedar, Advocate for Appellant in FA/1653/2020 & for Respondent No. 4 in FA/1886/2017

Mr. M. R. Deshmukh, Advocate for Respondent No. 5

CORAM : ABHAY S. WAGHWASE, J

RESERVED ON : DECEMBER 19, 2025

PRONOUNCED ON : DECEMBER 22, 2025

JUDGMENT:

1. These Appeal are preferred under Section 166 of Motor Vehicle Act, 1988 (for short “**the Act**”) by Owner of the Vehicle and Driver, respectively taking exception to the judgment and order dated 18.03.2017 passed in Motor Accident Claim Petition No. 289/2013 by MACT, Latur.

2. The facts, which led to the filing of these Appeals, can be narrated in brief as under:

On 28.08.2013, after finishing his work at Sweet Mart at Latur, the deceased Navnath and his relative, namely Sunil Dnyanoba Boke, were returning to their village, Chincholirao Wadi, on a motorcycle bearing registration No. MH-24-AC-7027. When they reached near Sinchanbhavan on the Latur–Barshi Road, Sunil got down from the motorcycle to attend nature’s call. While the deceased was waiting for Sunil, suddenly a Mini Door three-wheeler bearing registration No. MH-24-F-0509 came from the opposite direction in a rash and negligent manner and dashed against the motorcycle of the deceased. Due to the said impact, the deceased fell down, sustained multiple fractures and grievous injuries on vital parts of his body, and became unconscious. The deceased was immediately taken to the General Medical College and Hospital, Latur, by his relatives, where he was declared dead..

Claimants being widow and children, filed claim Petition bearing MACP No. 289/2013 before Tribunal at Latur claiming compensation of Rs.12 lacs.

3. Owner and Insurer have contested the claim petition and filed their written statements at Exhibits 18, 19 and 21, respectively denying the claim and contentions of the claimants.

4. After framing of the issues at Exhibit 35, Claimant No.1 – Saraswati led her evidence. Tribunal by judgment and award dated 18.03.2017, holding original Respondent Nos. 1 and 2 liable & directed Respondent No. 3 to pay sum of Rs. 8,30,000/- along with interest at 6% per annum and further recover the same from these Respondent Nos. 1 and 2.

Since Tribunal has exonerated the Insurance Company from liability, Original Respondent No. 2 has preferred First Appeal No. 1886/2017 & being aggrieved by order of Tribunal, Original Respondent No. 1 has preferred First Appeal No. 1653/2020.

5. Learned Counsel for the Appellant in First Appeal No. 1886/2017 submits that Tribunal has grossly erred in exonerating the Insurance Company from the liability without considering settled principles of law. He placed reliance on judgment of Hon'ble Supreme Court in case of **Sunita and Others vs. United India Insurance Co. Ltd and Ors**, Civil Appeal No. 9538/2025 & **Mukund Dewangan v Oriental Insurance Company Limited, (2017) 14 SCC 663.**

6. Learned Counsel for the Appellant in First Appeal No. 1653/2020 submits that the Tribunal has erred in not considering the fact that the alleged vehicle which was used in accident were already sold to Respondent No. 4 and transferred on the name of Respondent No. 4. He

further submits that when vehicle itself was not in the name of Appellant, Tribunal ought to have considered the said aspect. On these amongst other grounds, he prays that impugned judgment and order needs to be modified.

7. Learned Counsel for Insurer supported the impugned judgment and order of Tribunal.

8. There is no dispute with regard to the fact that on 28.03.2013 accident occurred in which deceased died. Further, there is evidence to indicate that deceased was on motorcycle and waiting for Sunil and hence, cannot be held responsible for the occurrence of the accident in any manner whatsoever. Police papers indicate the involvement of the offending Mini door three-wheeler in the occurrence of accident.

9. This Court first would like to decide whether the Tribunal has erred in exonerating Insurer from the liability.

10. The Hon'ble Supreme Court in case of Mukund Dewangan (supra) has made following observations:

(i) 'Light motor vehicle' as defined in Section 2(21) of the Act would include a transport vehicle as per the weight prescribed in Section 2(21) read with Section 2(15) and 2(48). Such transport vehicles are not excluded from the definition of the light motor vehicle by virtue of Amendment Act No. 54/1994.

(ii) A transport vehicle and omnibus, the gross vehicle weight of either of which does not exceed 7500 kg. would

be a light motor vehicle and also motor car or tractor or a road roller, 'unladen weight' of which does not exceed 7500 kg. and holder of a driving licence to drive class of "light motor vehicle" as provided in Section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or road-roller, the "unladen weight" of which does not exceed 7500 kg. That is to say, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class as enumerated above. A licence issued Under Section 10(2)(d) continues to be valid after Amendment Act 54/1994 and 28.3.2001 in the form.

(iii) The effect of the amendment made by virtue of Act No. 54/1994 w.e.f. 14.11.1994 while substituting Clauses (e) to (h) of Section 10(2) which contained "medium goods vehicle" in Section 10(2)(e), medium passenger motor vehicle in Section 10(2)(f), heavy goods vehicle in Section 10(2)(g) and "heavy passenger motor vehicle" in Section 10(2)(h) with expression 'transport vehicle' as substituted in Section 10(2)(e) related only to the aforesaid substituted classes only. It does not exclude transport vehicle, from the purview of Section 10(2)(d) and Section 2(41) of the Act i.e. light motor vehicle.

(iv) The effect of amendment of Form 4 by insertion of "transport vehicle" is related only to the categories which were substituted in the year 1994 and the procedure to obtain driving licence for transport vehicle of class of "light motor vehicle" continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding licence to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect.

11. The Hon'ble Supreme Court in this case has held that a transport vehicle and omnibus, the gross vehicle weight of either of which

does not exceed 7500 kg. would be a light motor vehicle and also motor car or tractor or a road roller, 'unladen weight' of which does not exceed 7500 kg. and holder of a driving licence to drive class of "light motor vehicle" as provided in Section 10(2)(d) is competent to drive a transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7500 kg. or a motor car or tractor or road-roller, the "unladen weight" of which does not exceed 7500 kg.

12. In the present case, while deciding Issue No. 4, the Tribunal in paragraph 12 has observed that Respondent No. 3 examined D.W. 1, Satish Jagannath Sadamate, Deputy Regional Transport Officer & the said witness deposed that the driving licence of Balasaheb Kendre, the driver of the offending vehicle, was issued for motorcycle with gear, LMV (non-transport) and transport vehicle (goods). He further admitted that Balasaheb Kendre was holding a valid driving licence and was permitted to drive an LMV vehicle. However, on appreciation of this evidence, the Tribunal held that the driver was not authorised to drive a three-wheeler non-transport and three-wheeler transport vehicle and, therefore, concluded that there was a breach of the insurance policy and exonerated the insurance company.

13. The finding recorded by the Tribunal regarding the driver not holding a valid licence to drive a three-wheeler non-transport and three-wheeler transport vehicle is clearly contrary to the law laid down by the

Hon'ble Supreme Court in Mukund Dewangan (supra). The offending vehicle, being a three-wheeler, squarely falls within the definition of a Light Motor Vehicle. As held by the Hon'ble Supreme Court, a person holding a valid driving licence to drive an LMV is competent to drive a transport vehicle of the same class, the gross vehicle weight of which does not exceed 7500 kg, without any separate endorsement.

In view of this authoritative pronouncement, it cannot be held that there was any breach of the insurance policy. Consequently, the Insurance Company is jointly and severally liable to pay the compensation. However, pay and recover order cannot sustain and is liable to be set aside.

14. The last issue that remains for consideration pertains to the contention of the Appellant in First Appeal No. 1653 of 2020, who claims that he was not the owner of the vehicle at the time of the accident, having allegedly sold the same to Respondent No. 4. However, no cogent evidence has been produced to substantiate this contention. On the contrary, his name continues to be reflected as the registered owner of the vehicle in the official records. In the absence of any material to the contrary, the findings recorded by the Tribunal holding him liable to pay compensation cannot be faulted with and deserve to be upheld.

15. As a result of above, following order is passed:

ORDER

- (a) Appeal No. 1653/2020 stands dismissed.
- (b) Appeal No. 1886/2017 is allowed. Impugned judgment and order dated 18.03.2017 passed in Motor Accident Claim Petition No. 289/2013 by MACT, Latur is modified as under:
- (c) The Respondent Nos. 1, 2 & 3 are held jointly and severally liable to pay compensation to claimants.
- (d) Clause no. 3 of the impugned judgment and order is set aside.
- (e) Rest of judgment and order to kept intact.
- (f) No order as to costs.
- (g) In view of disposal of Appeals, pending applications, if any, stands disposed of.

(ABHAY S. WAGHWASE, J.)

Malani