



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1437 OF 2011
WITH CIVIL APPLICATION NO. 5451 OF 2025

United India Assurance Company Ltd.,
Divisional office, No.I, Adalat Road,
Aurangabad, through its:
Senior Divisional Manager.

... **APPELLANT**
(orig. Respondent No.2)

VERSUS

1. Smt. Gangubai w/o Baban Katke
Age : 37 yrs., Occ.: Household,
R/o Pundliknagar Aurangabad
2. Aashabai d/o Baban Katke
Age : 19 yrs., Occu.: Household
R/o Pundliknagar Aurangabad
3. Punnam d/o Baban Katke
Age : 17 yrs., Occ.: Household,
R/o Pundliknagar Aurangabad
4. Vandana Bai d/o Baban Katke
Age : 15 yrs., Occ.: Student & Minor,
R/o Pundliknagar Aurangabad
5. Sonayabai d/o Baban Katake
Age : 14 yrs., Occ.: Student
R/o Pundliknagar Aurangabad
6. Durgabai d/o Baban Katke
Age : 13 yrs., Occ.: Minor, Student
R/o Pundliknagar Aurangabad
7. Hanuman s/o Baban Katke
Age : 11 yrs., Occ.: Student, minor

R/o Pundliknagar Aurangabad

8. Pintibai d/o Baban Katke
Age : 7 yrs., Occ.: Minor, Student
R/o Pundliknagar Aurangabad

... **RESPONDENTS**
(Orgi. Claimants)

9. Rangnath s/o Murlidhar Katkade
(Dead) through his LR's

- 9a. Hemant s/o Rangnath Katkade
R/o. Manmad, Camp No.2,
Tq. Nandgaon, Dist. Nashik.

(Orgi. Res.No.1)

Mr. M. M. Ambhore, Advocate for the Appellant
Mr. A. P. Gunge, Advocate for the Respondents

CORAM : ABHAY S. WAGHWASE, J

RESERVED ON : NOVEMBER 24, 2025

PRONOUNCED ON : NOVEMBER 27, 2025

JUDGMENT :-

1. This is an insurance Appeal wherein, judgment and award passed by the learned Member, Motor Accident Claims Tribunal, Aurangabad in MACP No. 282 of 2007, dated 31.01.2009, is taken exception.

2. In nutshell facts giving arise to present Appeal are as under:

. Present Respondent Nos. 1 to 9 have filed MACP No. 282/2007 on the premise that, Baban Katke, a daily wage earner

was proceeding in a Tractor bearing No. MH-15/R-8769 on 14.12.2006. The said Tractor met with fatal accident and therefore in the capacity of his LR's, present Respondents set up accident claim by invoking Section 163-A of Motor Vehicle Act (for short 'MV Act') seeking compensation to the tune of Rs.5 lakhs. The claim was answered by learned Tribunal by appreciating the evidence on record. Thereby partly allowing the claim and directing present Appellant-Respondent therein in the Trial Court to pay amount of Rs.4,00,410/- with 9% per annum interest. The same is assailed by original Respondent No.2-Insurance Company.

3. Learned Counsel for Insurance Company would submit that there is improper appreciation on the part of learned Tribunal while allowing claim under Section 163-A of the MV Act. He pointed out that settle legal position has not been taken into account. That entire fault was on the part of deceased driver and there was no other vehicle involved. Therefore, learned Tribunal ought not to have allowed the claim. He further pointed out that even learned Tribunal erred in applying multiplier in view of age of deceased. Even rate of interest of which compensation is awarded is exorbitant. For above reasons he urges to allow the Appeal.

4. Learned Counsel for Respondents supports the findings and conclusion and points out that claim was under Section 163-A of MV Act and as per schedule, learned Trial Court has awarded compensation that impugned judgment carries discussion as regards to settle legal position and therefore according to him no fault can be found whatsoever in the impugned judgment.

5. Heard. Perused the papers and the impugned judgment. As submitted, it appears that LR's of deceased set up claim of Rs.5 lakhs on account of death of Baban who was allegedly behind wheels of Tractor bearing No. MH-15/R-8769 and the said Tractor allegedly stopped and turned turtle inflicting injuries to which he alleged scammed. Apparently, as pointed out by learned Counsel for Respondents claim has been set up by invoking Section 163-A of MV Act. This being the position, it is settled position that there is no need for establishing negligence and compensation is provided as per the structure formula provided in the statute itself.

6. There are judgments to this extent. Learned Counsel for the Respondents has placed on record the judgment of the Hon'ble Apex Court in case of *The New India Assurance Company Limited*

Versus Usha Devi and Others in Special Leave Petition (Civil) No. 15191 of 2020 wherein the law to the extent of applicability of 163 has been enunciated.

7. Therefore, in view of settled legal position, there is no substance in the grounds raised in the Appeal by Insurance Company.

8. However, as rightly pointed out by learned Counsel for the Appellant that when age of deceased was shown to be 40 years, in view of ***Sarla Verma & Ors vs Delhi Transport Corp.& Anr, AIR 2009 SC 3104***, multiplier which ought to have been invoked is 15 and not 16. On perusal of the judgment in paragraph No. 18, learned Trial Court has applied 16 as the multiplier. Therefore, interference to that extent is called for. As regards to the second submission that exorbitant rate of interest is awarded, this Court does not find any reason to interfere as merely 9% rate of interest has been awarded. Therefore, with the above observations, Appeal is dismissed for want of merits except on the point of modification of order to the extent of application of multiplier.

9. In view of dismissal of the Appeal itself, Civil Application No. 5451 of 2025 filed by the Original claimants for withdrawal of amount is allowed in terms of prayer clause 'B'.

(ABHAY S. WAGHWASE, J)

ssp