



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2175 OF 2012 WITH
CIVIL APPLICATION NO. 13963/2012

1. Iffco Tokio General Insurance Co.Ltd.
Afl House 2nd Floor Kokbharti Complex,
Marol, Maroshi Road, Andheri [East]
Mumbai and Customer Service Centre,
3rd floor, Plot No. 7, Kwaliti Business
Centre, Zone II, M.P. Nagar, Bhopal – 462001
2. Virendrasingh Thakur,
Major, Business, 196 Patnipura,
Nandannagar, Indore (MP)

...Appellants

Versus

1. Smt. Janabai Bhanudas Ame,
Age: 45 years, Occ. Household,
2. Dilip Bhanudas Ame,
Age: 35 years, Occ. Labourer
3. Pandharinath Bhanudas Ame,
Age: 30 years, Occ. Labourer
4. Sharad Bhanudas Ame,
Age: 28 years, Occ. Labourer
5. Bharat Bhanudas Ame,
Age: 17 years, Occ. Education
6. Parshuram Bhanudas Ame,
Age: 14 years, Occ. Education

Applicant Nos. 5 & 6 Minors through their
natural guardian mother – applicant 1.

7. Raoji Lahanu Ame,
Age: 70 years, Occ. Nil

All R/o. Laximinagar Vasahat, Shirdi,
Tal. Rahata, Dist. Ahmednagar

...Respondents

- Mr. V. N. Upadhye, Advocate for the Appellants
- Mr. S. N. Gaikwad h/f Mr. N. V. Gaware, Advocate for the Respondent Nos. 1 to 7

CORAM : ABHAY S. WAGHWASE, J
DATE : NOVEMBER 27, 2025

ORDER :

1. Original respondent no. 2 insurance company hereby takes exception to judgment and order dated 16.03.2012 passed in MACP No. 80/2010 by MACT, Kopargaon whereby claim set up by present respondents under Section 166 of Motor Vehicles Act was allowed, thereby granting compensation of Rs. 7,15,000/- with 7.5% rate of interest.

2. In nutshell, present respondents set up claim before learned Tribunal on the premise that on 13.07.2010 Bhanudas was proceeding on motorcycle bearing no. MH-17-AD-8841, at that time he was given dash by Tata Safari bearing no. MP-09-CG-5691 from the rear side causing fatal injuries to Bhanudas. After registration of crime against driver/owner of offending vehicle, in the capacity of heirs wife, children and parents of deceased set up accident claim on the ground that Bhanudas was running florist shop was earning Rs. 6,000/- in addition to agricultural work and he having died in road traffic accident, they have lost their source of income.

3. Above claim was mainly resisted by present Appellant

/Insurance Company. After hearing both sides, learned Tribunal was pleased to pass above award. The same is now subject matter of instant appeal.

4. Learned counsel for appellant/insurance company would point out that there was no evidence to hold sole negligence on the part of driver of the offending vehicle and, therefore, findings recorded by Tribunal are contrary to the record. He pointed out that going by the spot it is clear that motorcycle lying on the road and on the basis of such situation it can safely assumed that deceased himself had gone to the wrong side. That, motorcycle was being driven in excessive high speed and such crucial aspects are not taken into consideration by learned Tribunal and, therefore, he urges to interfere by allowing the appeal and setting aside the impugned judgment and award.

5. Learned counsel for respondents would support the judgment and order and would urge to dismissed the appeal.

6. Perused the evidence on record. PW 1 wife of deceased Bhanudas is examined at Exhibit 13. She seems to be an eye witness. Her testimony has virtually remained unshaken. As it appears from the record that defendant (appellant herein) had admitted police papers, nothing remains to be dealt and decided. Therefore, in the light of eye witness account, no fault can be found on the part of Tribunal in holding that

offending vehicle was solely responsible as apparently dash is given from rear side. There is no evidence that deceased was in excessively high speed nor there is evidence to show that he went on wrong side to hold him also negligent. Therefore, on the point of holding offending driver responsible, finding of Tribunal cannot be faulted with.

7. As regards to grant of compensation is concerned, it is noticed that learned Tribunal has recorded correct findings in paragraphs 15 to 18 regarding alleged business conducted by deceased and has taken reasonable income to be Rs. 5,000/- per month and after deducting 1/4th income towards personal expenses, loss of income to the tune of Rs. 3,750/- has been taken into account and judgment of Hon'ble Apex court in case of *Sarla Verma & Ors vs Delhi Transport Corp. & Anr.*, AIR 2009 Supreme Court 3104, has rightly considered for applying multiplier in view of age of the deceased. Paragraph 23 and 25 of the judgment of Tribunal shows that appropriate amount under the heads of funeral expenses, loss of future income, loss of consortium, loss of estate are duly granted. Therefore, this Court also finds no infirmity in arriving to the conclusion of entitlement of compensation.

8. In the light of above discussion, there being no perversity and illegality in the manner of appreciation or conclusion reached by learned Tribunal, this Court finds no reason to interfere. Hence, I proceed to pass following order:

ORDER

- A) First Appeal stands dismissed.
- B) Civil Application(s), if any, stands disposed of.

(ABHAY S. WAGHWASE, J.)

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