



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 778 OF 2011

- 1] Ramrao Vinayak Deshmukh
Age: 35 years, Occu.: Agri.
- 2] Vinayak @ Bapurao s/o Rangrao Deshmukh
Age: 60 yrs., Occu.: Agri.,
Both R/o. Shaikh Rajur, Tq.Palam,
District Parbhani.Appellants

Versus

- 1] Kishan s/o Bhagwanrao Khedkar
Age: 59 years., Occu.: Business,
R/o. : Shaikh Rajur, Tq.Palam,
District : Parbhani.
- 2] The Oriental Insurance Co. Ltd.,
Through its Branch Manager,
Branch at Daulat Building,
Shivaji Chowk, Parbhani.Respondents

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Advocate for Appellant : Mr. Amit A. Mukhedkar
Advocate for Respondent no.1 : Mr. M.P. Kale
Advocate for Respondent no.2 : Mr. V.N.Upadhye

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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 08 DECEMBER, 2025
PRONOUNCED ON : 11 DECEMBER, 2025**

JUDGMENT :-

1. In this appeal, there is challenge to judgment and order dated 12-04-2010 passed by learned Member, Motor Accident Claims

Tribunal, Gangakhed, in MACP No.124 of 2004 partly allowing the claim petition and granting compensation of Rs.25,000/- along with interest @ 6% per annum from the date of application till realization of amount.

2. In brief case before learned Tribunal was that, MACP No.124 of 2004 was instituted by one Kishan Bhagwanrao Khedkar against Ramrao Vinayak Deshmukh and Bapurao Rangrao Deshmukh, Driver and owner respectively of Jeep MH-22 B-7088 and Insurance Company on the premise that, while petitioner was travelling in said Jeep on 04-11-2003, when the vehicle was on Loha to Palam road, the driver of the Jeep was rash and negligent and having lost control, the vehicle turtled and petitioner suffered injuries to various parts of body and required to be hospitalized and treated and thereby under various heads claim was set up to the tune of Rs.1,00,000/-.

Respondent nos.1, 2 and 3 resisted the claim vide exh.10 and 11 respectively.

Learned Tribunal, after appreciating the above evidence, partly allowed the claim petition as stated above. Original respondent nos.1 and 2 have challenged the above judgment and award on various grounds raised in appeal memo.

3. Learned counsel for appellants would submit that false claim was set up in absence of any cogent and reliable evidence. That, there was no involvement of any other vehicle. That, involvement of Jeep itself was in dispute as according to learned counsel, initially present respondent no.1 supplied different vehicle registration number and later on, it was changed thereby creating doubt about involvement of vehicle whose details were given in petition.

4. He further submitted that, Policy (exh.34) shows names of appellant no.2 as Vinayakrao R. Deshmukh and not Bapurao s/o Rangrao Deshmukh, however, learned tribunal failed to consider and appreciate the same and thereby exh.34 has been misconceived.

5. Lastly, he pointed out that, in the vehicle almost 15-20 passengers were travelling and such aspect is not considered and moreover, learned Tribunal also failed to consider contributory negligence. For above reasons, he urges to set aside the impugned judgment and award.

6. Learned counsel for respondent no.1 supports the findings and conclusion reached at by the learned Tribunal. He pointed out that, initially due to inadvertence, vehicle registration number was only

provided as MH22/7088 and not MH-22 B-7088 and therefore, amendment was required to be carried out. That, vehicle particulars substantiated the registration number. He submitted that above inadvertence was due to typing mistake. That, vehicle was insured. That, policy covered was also on record. Therefore, learned Tribunal has rightly directed present appellants to be liable to pay compensation jointly and severally.

7. Heard. Re-appreciated entire evidence.

8. It seems that before the learned Tribunal, present respondent no.1 / original claimant adduced evidence at Exhibit 17 apart from keeping on record copy of FIR, spot panchanama and learned Tribunal seems to have thereupon duly marked such documents from Exhibits 39 to 41. Exhibit 41 is the report about the motor vehicle allegedly involved in the accident, giving details of the vehicle, name of injured, owner and driver. Respondent no.2 merely denied ownership without substantiating the same.

9. By way of documentary evidence, Exhibit 41 has been placed on record, which is Form COMP - AA issued by Police Station, Palam showing name of the owner of the vehicle to be Bapurao s/o.

Rangnath Deshmukh and name of driver to be Ramrao Vinayakarao Deshmukh.

10. Insurance Company seems to have placed on record Exhibit 34, but the policy period is from 11-11-2003 to 10-11-2004. However, alleged accident had taken place on 04-11-2003 and therefore, this policy cover has no value. There is no policy cover to show coverage of the vehicle in question at relevant time and therefore, learned Tribunal has fixed liability only on driver and owner of the vehicle and has rightly absolved Insurance Company for want of insurance.

For above reasons, change in registration number being attributable to inadvertence and same being rectified later on, the ground raised before this court has no force. Form COMP - AA Exhibit 41 clearly shows who was owner and driver of vehicle at the time of accident and therefore, owner and driver are rightly held liable jointly and severally to pay compensation to the tune of Rs.25,000/- along with interest @6% per annum from the date of application till realization of amount.

In view of above discussion, as there is no merit in the appeal, it deserves to be dismissed. Accordingly, I pass following order :

ORDER

First Appeal stands dismissed.

(ABHAY S. WAGHWASE)
JUDGE