IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3570 OF 2019

Mallappa S/o. Vishwanath Swami,
Age : 49 years, Occu. : Private Service,
At Present Nil, R/o. Kasarshirshi,
Tq. Nilanga, Dist. Latur. ... Appellant

Versus

1. Achut S/o. Baburao Jadhav @ Dhumal,
Age : 49 years, Occu. : LIC Agent,
R/o. Nelwad, Tq. Nilanga,
Dist. Latur.
(Owner – cum – driver of vehicle
no. MH-24-V-0049)

2. Branch Manager, United India Insurance Co. Ltd.,
"Sumitra" Near Hotel Shanti,
Ambajogai Road, Latur,
Tq. & Dist. Latur.
(Insurer of Car No. MH-24-V-0049)
Policy No. 23110003113P104123465
Period of Policy : 04.10.2013 to 03.10.2014
Date of accident : 25.08.2014 ... Respondents
(Orig. Respondents)

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Mr. Santosh B. Gastgar, Advocate for Appellant.
Mr. S.S. Rathi, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 07 AUGUST 2025
PRONOUNCED ON : 13 AUGUST 2025

JUDGMENT :

1. Instant appeal invokes section 173 of Motor Vehicles Act challenging the judgment and award passed by Member, Motor Accident Claims Tribunal, Nilanga in M.A.C.P. No.07 of 2015

dismissing the claim petition seeking compensation for injuries allegedly suffered in road traffic accident dated 25.08.2014.

2. Present appellant moved compensation petition by invoking section 166 of M.V. Act on the premise that on 25.08.2014, around 4:30 p.m, while he was proceeding on his motorcycle bearing no. MH-05-AC-1695 over Nilanga to Kasar-Shirshi road, his motorcycle was given dash by car bearing no. MH-24-V-0049. Because of the accidental injuries, he suffered permanent disability and hence entitled to receive just compensation. Respondents herein resisted the above claim disputing involvement of the very vehicle and setting up a specific plea that claim itself is false and frivolous and that insurer is not at liable to pay any compensation as prayed.

Necessary issues were castes by tribunal and on analyzing the evidence of claimant at Exh.22, documentary evidence like FIR, compliant, panchanama at Exhs.24, 25, 26 and 27 were taken into account. On appreciation of evidence, learned tribunal recorded a finding that there is inordinate delay in naming offending vehicle, secondly no evidence to suggest involvement of offending vehicle insured by insurance company and hence finally dismissed the petition, which is now taken exception to by way of instant appeal on several grounds raised in the appeal memo.

SUM AND SUBSTANCE OF THE ARGUMENTS

3. Learned counsel for the appellant would point out that, appellant claimant had demonstrated and established that while he was proceeded on his motorcycle on 25.08.2014, offending vehicle insured by insurance company, which was being driven in rash and negligent manner, gave dash to his motorcycle as a result of which he suffered multiple injuries on leg, head and other parts of the body. He suffered permanent disability. That, FIR, spot panchanama, medical evidence / certificate were placed on record. In view of road traffic accident, claim for compensation was made out, but the learned trial court has failed to consider and appreciate appellant's case in proper perspective. He pointed out that, in cases of such nature, delay is of no much significance, but precisely it is made one of the highlighting point by the tribunal for doubting the claim. He pointed out that, because of injuries, claimant was required to be admitted and treated at several hospitals. Doctors, who examined and treated, have been examined, and as such, refusal to consider above quality of evidence has resulted into injustice and hence, he seeks indulgence at the hands of this court by allowing the appeal.

4. Per contra, registering strong objection to the very alleged occurrence of accident, learned counsel for respondent - insurance company would point out that, there are serious doubts about case set up by claimant. He took this court through the

observations of tribunal in paragraphs 11 and 12 of the judgment and would submit that, there is correct appreciation. That, there are good reasons to doubt the very occurrence or involvement of the alleged offending vehicle. He pointed out that, there is no prompt reporting. Timings reported regarding alleged occurrence are varying i.e. in FIR, medical papers and precisely the same has been correctly appreciated by the tribunal. He further pointed out that, at first instance report is about fall from motorcycle, and subsequently case is set up about fall on getting drunk. Thus, according to him, very alleged occurrence has comes under shadow of doubt and he urges to dismiss the appeal for want of merits.

5. After considering the above arguments advanced and on going through the papers, it is emerging that, present appellant sought compensation on account of meting an accident while proceeding on his motorcycle on 25.08.2014 as a result of alleged dash given by car bearing MH-24-V-0049 said to be insured by present respondent no.2.

Evidence of claimant is at Exh.22. As regards to documentary evidence is concerned, reliance is placed on Exh.24, 25, 26 and 27. Specific objection of respondents is that, said documents are manufactured. In view of above grounds raised by respondents, above documents are visited. As submitted, in report, timing of occurrence is given as 05:15 p.m. However, the very medical certificate Exh.27 reflects timing of examination of claimant as 3:50 p.m. Therefore, obvious question that crops up is how there could be medical examination prior to the very occurrence resulting into injury. There is no explanation to this extent by the appellant. No case of typing mistake or inadvertencies also put-forth to overcome the above discrepancy.

6. Another distinct features which is emerging as pointed out that, in Exh. 46, page nos. 26 and 28, history of accident is given as “fall from motorcycle” and there is no reference of dash being given by any vehicle. Further history is given, “while driving home, after getting drunk, met with an accident and that patient is unable to recall the events”. Such endorsement also creates serous doubts about dash being given by vehicle allegedly insured by respondent – insurer. On page 28, another medical expert, who examined him noted that, “the patient was under a drunken state, when on bike, suffered RTA and had sustained injuries”. Again, details of vehicle involved are not provided to the doctor.

7. Though claimant has set up a case of suffering permanent disability due to accidental injury and to that extent PW3 medical expert is examined, but it appears that PW3 is not the treating doctor and he has merely issued disability certificate without treating claimant.

8. Lastly, FIR shows that report is lodged after gap of almost three months from alleged occurrence. Faced with such situation, delay is not explained. Even the persons who allegedly shifted injured claimant to the hospital, are not examined. Therefore, whatever material is sought to be relied, is not worthy of credence to accept the case of dash being given due to rash and negligent driving at the instance of person behind the wheels of the vehicle insured by respondent.

9. To sum up, here there are serious and several doubts regarding the very alleged occurrence dated 25.08.2014, in which dash was said to be given by vehicle insured by respondent - insurance company. Claimant has not proved very involvement of vehicle. Belated FIR and multiple histories reported for injury further contribute to the veracity of claimant's version.

10. In the light of above discussion and on going through the impugned judgment, this court does not find any reason to interfere as urged for. Hence, the following order is passed :

ORDER

The appeal stands dismissed.

(ABHAY S. WAGHWASE, J.)

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