



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2141 OF 2020
WITH
CIVIL APPLICATION NO. 3743 OF 2025
IN FA/2141/2020

New India Assurance Co. Ltd.,
Through it's Branch Manager,
3rd Party Claims Hub, 3rd Floor,
Rushiraj Regency, Near Vidya Vikas Circle,
Gangapur Road, Nashik – 422 005.

Thr. Its Divisional Manager/Authorized Signatory,
Mahesh Auto Compound,
Adalat Road, Aurangabad,
Dist.Aurangabad.

....Appellant
(Original Respondent No.3)

Versus

- 1) Maruti Baban Pawar
Age: 47 years, Occu.: Labour,
- 2) Suman Maruti Pawar
Age: 42 years, Occu.: Household,
Both R/o. Punatgaon, Tq.Newasa,
Dist.Ahmednagar.
- 3) Sunil Dnyaneshwar Pawar
Age: Major, Occu.: Business,
R/o. : Punatgaon, Tq.Newasa,
Dist.Ahmednagar.
- 4) Arun Raghunath Tagad
Age: Major, Occu.: Driver,
R/o. Punatgaon, Tq.Newasa,
Dist.Ahmednagar.

.....Respondents
(Rspdt. Nos.1 & 2 – Org. Claimants
Rspdt Nos.3 & 4 – Org.Rspdt.Nos.1 & 2)

.....

Advocate for Appellant Insurance Company : Mr. M.M. Ambhore
Advocate for Respondent nos.1 and 2 – claimants: Mr.Amol S. Gandhi

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 16 JUNE, 2025

PRONOUNCED ON : 01 JULY, 2025

JUDGMENT :-

1. Instant appeal is at the instance of Insurance Company under Section 173 of the Motor Vehicles Act, taking exception to judgment and award dated 09-10-2019 passed by learned Member, Motor Accident Claims Tribunal (MACT), Shrirampur in M.A.C.P. No.158 of 2018 thereby, partly allowing the claim of present respondent nos.1 and 2 on account of death of deceased Sachin Pawar after his limb got amputated while conducting activity of harvesting maize crop on thresher machine.

The learned Tribunal fixed joint and sever liability of respondent nos.1 to 3 therein i.e. owner, driver of Tractor and their insurer company i.e. respondent no.3. Exception by way of appeal is taken by only Insurance Company.

SUBMISSIONS

On behalf of appellant :

2. Apprising this Court about brief facts of the claim petition, it is pointed out that on 10-05-2018, deceased Sachin and his father were performing agricultural activity of threshing the maize crop. He

pointed out that the machinery, which was put to use for threshing is a distinct part and it does not fall in the definition of Motor Vehicle. Unfortunately deceased Sachin allegedly met with an accident while running machinery causing an imputation to left limb and while treatment, he allegedly succumbed to the same. That, parents of deceased set up a false claim before the MACT, Shrirampur demanding compensation.

Learned counsel pointed out that after issuance of notice and after tendering written statement, appellant Insurance Company refuted their liability to pay any compensation. Learned counsel for appellant took this Court through specific stand taken by them in written statement exh.23 that, firstly, Tractor in question had no concern with the accident, secondly, accident did not involve motor vehicle so as to maintain any claim under the Motor Vehicle Accidents Claim. Learned counsel further pointed out that stand taken in written statement was that the threshing machine, due to which amputation was suffered by deceased, was not insured and therefore, there is no question of granting any compensation. He further submitted that there is no independent eye witness about so called accident met by deceased Sachin.

He submitted that learned Tribunal has not assigned sound and

legally acceptable reasons while accepting the claim asserted. He also pointed out that by virtue of specific ground, very maintainability of accident claim petition was questioned. He also pointed out that though incident took place on 10-05-2018, there was no prompt lodgment of complaint apart from spot panchanama being drawn after 10 days. For all above reasons, learned counsel for appellant questions the impugned judgment and award passed by the learned Tribunal.

Learned counsel for appellant relied on the decision of Hon'ble Supreme Court in the case of *Oriental Insurance Co.Ltd., v. Meena Variyal and Others*, (2007) 5 Supreme Court Cases 428 and Judgment of this Court in the case of *Krishnaji @ Kisanji Ramaji Tadas v. Umesh Rambhau Shrirame*, 2015 (6), Mh.L.J. 334.

On behalf of respondent nos.1 and 2 – original claimants :

3. On the other hand, learned counsel for respondent nos.1 and 2 / original claimants supported judgment of learned Tribunal, its finding and submitted that, there is no denial that threshing machine was part and parcel of Tractor. That, the very Tractor and its accessories are insured with appellant Insurance company. He pointed out that claimant no.1 father is party to the occurrence. He

has deposed before the Court and his evidence has remained unshaken.

Learned counsel for respondent nos.1 and 2 invited attention of this Court to the decision of the Hon'ble Supreme Court in the case of *Chairman, Rajasthan State Road Transport Corporation and Ors. v. Santosh and Ors.*, 2013 AIR (SC) 2150 and Judgment of this Court in case of *Krishnaji @ Kisanji Ramaji Tadas v. Umesh Rambhau Shrirame*, 2015 (6), Mh.L.J. 334, and urges dismissal of appeal for want of merits.

ANALYSIS

4. After hearing the submissions of both the sides, it appears that fundamental grounds of challenge in the appeal are that firstly, deceased Sachin having met with an accident while conducting agricultural activity that too by use of threshing machine and it being distinct part of the Tractor, accident claim petition itself is not maintainable, secondly there was no sufficient evidence to draw conclusion about death of Sachin to be on account of use of any accessories or machinery and thirdly, delayed FIR as well as delayed spot panchanama.

5. Appreciated the oral and documentary evidence and also gone through the impugned judgment passed by the learned MACT. There is no dispute about engagement of Tractor owned by respondent no.3 herein and its driver to be respondent no.4 herein. These two respondent parties have not challenged the claim on any count. On the contrary, they have admitted engagement of Tractor for operating threshing machine to harvest maize crop and there is no denial that threshing machine was attached to Tractor.

Sum and substance of argument made before this Court by the appellant is that threshing machine is not a part of motor vehicle i.e. Tractor to seek compensation.

Reliance was placed before the learned Tribunal on the judgment of this Court in the case of *Krishnaji @ Kisanji Ramaji Tadas* (supra). In the above judgment, by virtue of Section 2(28) alongwith Section 2(44) of the Motor Vehicles Act, it has been held that thresher, which runs on power, though is an external accessory, it is a part and parcel of the Tractor and thus, it falls in the definition of motor vehicle. Facts in the case in hand are also identical. In the light of this citation, there is no hesitation to hold that thresher, being a part and parcel of Tractor and being conjointly put to use while harvesting activity being conducted, it falls in the definition of motor

vehicle. Therefore, findings of the learned Tribunal cannot be said to be either perverse.

6. The another ground pressed into service by the appellant is that there is no eye witness. However, respondent no.1 / claimant no.1, who was also accompanying deceased at the time of harvesting is examined.

Deceased Sachin having suffered imputation was required to be shifted to Pune and treated and therefore, the delay in reporting is not of much significance.

Therefore, grounds raised in appeal have no substance and merit so as to disturb the findings of the learned Tribunal. Accordingly, following order is passed :

ORDER

- (i) First Appeal No.2141 of 2020 is dismissed.
- (ii) In view of dismissal of appeal itself, Civil Application No.3743 of 2025 filed by original claimants for withdrawal of amount is allowed in terms of prayer clause "A".
- (iii) Civil Application No.3743 of 2025 is disposed of.

**(ABHAY S. WAGHWASE)
JUDGE**