

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 257 OF 2023

Reliance General Insurance Co. Ltd,]
Branch Office at Gemstone]
Rao Bahadur Dajirao Vichare]
Complex, 517 A/2 E, Near Central S. T. Bus]
Stand, New Shahupuri, Kolhapur 416002]

Policy Issuing Office]
4th Floor, Chintamani Avenue]
Next To Virwani Industrial Estate]
Western Express Highway]
Goregaon (East), Mumbai]

.... **Appellant**

Versus

1. Swati Kumar Mane]
Age- 30 years, Occu: Household.]
2. Chaitanya Kumar Mane]
Age: 12 years, Occu: Education.]
3. Gagan Kumar Mane]
Age- 9 years, Occu: Education]
(Applicant No.1 Motor Gaurdian for]
Applicant Nos.2 and 3.]
4. Shalan Laxman Mane]
Age: 58 years, Occu: Nil.]
5. Laxman Maruti Mane]
Age: 62 years, Occu: Nil,]
All R/o. Ganesh Colony, Savali]
Road Miraj, Tal. Miraj. District: Sangli]
6. Sachin Subhash Kore]
Age: 40 years, Occu: Business]

Respondent
Nos.1 to 5 are
Original
Claimants

R/o. Samdoli, Tal: Miraj, District: Sangli.	]	
7. Satish Ganpati Kadam	]	Respondent
Age: 30 years, Occu: Driver,	]	Nos.6 and 7
R/o. Kavathe, Tal: Wai, District: Satara.	]	are Original
		Opp. Party.

.... Respondents

Ms. Shalini Shankar a/w Mr. Avesh Ghadge, Advocate for the Appellant.

Mr. Sarthak Diwan a/w Mr. Aditya Ghadge, Advocate for the Respondent Nos.1 to 5.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th NOVEMBER, 2025.

ORAL JUDGMENT. :

1. This appeal is preferred by the Appellant – Insurance Company against the judgment and order passed by the Motor Accident Claims Tribunal, Sangli (for short, “the Tribunal”).

2. It is contention of learned counsel for the Appellant – Insurance Company that the accident occurred due to sole negligence of the deceased, but this fact is not considered by the Tribunal. Learned counsel further submitted that the Tribunal has considered the notional monthly income of the deceased on higher side. At the time of accident, the driver of offending vehicle was not holding

effective and valid driving licence, but these facts are not considered by the Tribunal, and requested to allow the appeal.

3. It is contention of learned counsel for the Respondent Nos.1 to 5 – Claimants that offence was registered against the driver of offending vehicle. No evidence has been brought on record to show that the driver of offending vehicle did not have effective and valid driving licence. At the time of accident, the deceased was 35 years old. He was engaged in poultry farming and supply of poultry birds and feed. On that ground, the Tribunal has considered monthly income of the deceased, which is proper. The Tribunal has passed well reasoned order, no interference is required in it, and requested to dismiss the appeal.

4. I have heard both learned counsel, perused the impugned judgment and order passed by the Tribunal.

5. It is Claimants' case that on 9th March, 2016, the deceased Kumar Mane was proceeding from Sangli to Islampur in his mini tempo bearing No. MH-10-BR-5558, at about 10:00 p.m., when he reached near Padalwadi Phata, an Eicher Tempo came from opposite direction in high and excessive speed, and came on wrong side of the road and gave dash to the tempo of deceased. Due to dash, the

deceased sustained grievous injuries and died while undergoing treatment. The offence was registered against the driver of offending tempo. To prove the negligence of the driver of offending tempo, the Claimants have examined the Claimant No.1 and have relied on police papers.

6. While dealing with the issue of negligence, the Tribunal has observed that the accident occurred due to sole negligence of the driver of offending tempo. An offence was registered against him. The driver of offending tempo did not step into witness box to prove the negligence of the deceased. On that ground, the Tribunal has considered that accident occurred due to sole negligence of driver of offending tempo. I do not find infirmity in it.

7. It is Claimants' case that the deceased was doing poultry business. To prove the income of the deceased, the Claimant No.1 has examined herself. She has stated that her husband was doing business of poultry farming and supply of poultry birds and feed. He was earning Rs.50,000/- per month from poultry business and Rs.1,00,000/- per month from the business of supplying birds and feed. She has further stated that the deceased had 1 acre irrigated land and cultivated crops like grape garden, thereby earning

Rs.2,00,000/- per annum. He possessed two tempos, one splendor motorcycle and also three open plots worth Rs.20,00,000/-. He has constructed bungalows worth Rs.25,00,000/- on one plot. Nothing elicited in cross-examination of this witness.

8. While dealing with the issue of income of the deceased, the Tribunal has observed that the deceased was doing poultry business. At the time of accident, the deceased was 35 years old. Considering evidence on record, the Tribunal has considered notional monthly income of the deceased at Rs.50,000/- per month. I do not find infirmity in it.

In my view, the deceased was doing poultry business as well as he had agricultural land and he also owned two tempos for transportation. Considering these facts, the income considered by the Tribunal is proper. To prove the defense that the driver of offending tempo was not holding effective and valid driving licence at the time of accident, no evidence is produced on record by the Appellant – Insurance Company. Hence, I do not see merit in the contention that driver was not holding valid driving licence.

9. In view of above, the appeal is devoid of merit, and I pass following order:

ORDER

- i. The appeal is dismissed.
 - ii. The Respondent Nos.1 to 5 - Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - iii. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rules.
 - iv. Record and Proceedings be sent back to the Tribunal.
10. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)