

Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1642 OF 2025

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- | | |
|---|---|
| 1. Smt. Sumitradevi Ramkhelawan Mukhiya |] |
| Age-47 yrs., Occ. Household, |] |
| 2. | |
| Kum. Soniya Ramkhelawan Mukhiya |] |
| Age-17 yrs., Occ. Education, |] |
| 3. Kumar Satyam Ramkhelawan Mukhiya |] |
| Age-14 yrs., Occ. Education, |] |
| Nos. 2 & 3 minor children through their |] |
| Natural guardian mother Appellant No. 1 |] |
| All R/o. Narayanpur, Tal. Jhajra, |] |
| Post Kusheshwarsthan, Dist. Darbhanga, |] |
| Bihar State-848213 |] |
| R/o. Kapase Plot, Kupwad, |] |
| Tal. Miraj, Dist. Sangli |] |
| Appellants | |

Versus

- | | |
|--|---|
| 1. Shri. Bhalchandra Bassappa Muchandi |] |
| Age Major, Occu. Owner, |] |
| R/o. Plot No. 18, Survey No. 465/13+15+16, |] |
| Rukmininagar, Near Balkrushna Nagar, |] |
| Kupwad, Tal. Miraj, Dist. Sangli | |
| 2. Shri. Revanu Sidram Patil |] |
| Age-34 yrs., Occu. Driver, |] |
| R/o. Balkrushna Nagar, Kupwad, |] |
| Tal. Miraj, Dist. Sangli |] |
| 3. United India Insurance Co. Ltd. |] |
| 290, Samrat Mension, Mahavir |] |

Nagar, Vakharbhag, Sangli
Policy No. 1611003117P113380105

]
]

... Respondents

Mr. T. S. Ingale a/w Saurabh Patil, Aditya Patil, Vrunali Vilankar for
the Appellants.

Ms. Varsha Chavan for Respondent No. 3-Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th December, 2025

JUDGMENT. :

1. This appeal is preferred by the appellant-claimants 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 appellants that the deceased was dashed by motorcycle. Due to said dash he suffered grievous injuries and died while taking treatment. The accident was witnessed by the eye witness. FIR was lodged on the same day, but the Tribunal has not considered these facts and dismissed the claim petition on the ground that the claimant failed to prove the accident. Learned counsel further submitted that deceased was working as hamal and stitching gony bags and earning Rs.19,600/- per month. He was maintaining his family. Hence, requested to allow the appeal.

3. It is the contention of learned counsel for respondent No.3- Insurance Company that the offence was registered against the unknown motorcycle rider. There are contradictions in the statement of eye witnesses. The Tribunal has correctly observed that the claimant failed to prove the accident. The judgment and order passed by the Tribunal is legal and valid. No interference is required in it, and requested to dismiss the appeal.

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

5. It is claimants case that on 6th September, 2018 around 7.00 p.m. the deceased was walking on the road. At relevant time, the offending motorcycle gave dash to him. Due to dash, he sustained injuries and died while taking treatment. To prove the negligence of motorcycle rider, the claimants have examined PW-3 Ganpat Karande, Head Constable of MIDC Police Station Sangli at Exhibit-68. He has stated that he had received informant from the civil hospital about the accident. He went to the hospital to record the statement of the deceased. But he was unconscious. Hence, he could not record his statement. On next day, he visited the incident spot where he found the glass pieces and broken pieces of dikky of motorcycle. There was

of dragging of motorcycle on the road. He recorded statement of the eye witness Ashok Mali. In the said statement he has stated that after the accident, he had caught hold the motorcycle rider and he knew him by his face. The eye witness has stated the number of motorcycle. In cross-examination, he admits that the eye witness had stated him that after hearing the sound of accident he went on incident spot, by that time the motorcycle rider had left the spot.

6. The claimants have examined PW-4 Ashok Mali at Exhibit-73. He has stated that on the day of accident, he was sitting in his shop. At that time, motorcycle rider came on wrong side and gave dash to the deceased. After the accident, the motorcycle fell on the ground along with the deceased. The motorcycle rider told him that he will bring the rickshaw and left the spot. In his cross-examination he admits that until police came to meet him, no one recorded his statement.

7. While dealing with the issue of accident, the Tribunal has observed that evidence of eye witness Ashok Mali is not reliable as he has stated before the police that he knew the rider of motorcycle by face. Whereas, in evidence before the Court, he has taken up the name of the rider of motorcycle. The learned Tribunal has further

observed that there are contradictions in the statement of the eye witness Ashok Mali before the police and evidence given before the Tribunal. On that ground, the Tribunal has dismissed the claim petition. I am unable to understand the observations of the Tribunal as after the accident, the deceased was admitted in the hospital. The accident was occurred on 6th September, 2018, after receiving information, the police arrested the rider of motorcycle and seized his motorcycle on 9th September, 2018 by panchanama. The panchnama is at Exhibit-27. In the said panchanama, it is mentioned that right side iron guard of the said motorcycle is broken. The right part of handle of the bike was rubbed, the lid of the dikky is broken. The damage caused to motorcycle matches with the spot panchnama. In the spot panchanama it is mentioned that the police found broken pieces of dikky and dragging mark of the motorcycle on road. It supports the claimant's case. In the statement of eye witness, he has specifically stated the name of the motorcycle rider. But these facts are not considered by the Tribunal and has wrongly held that the claimants failed to prove the accident, which is perverse. Considering evidence on record, I held that the deceased died due to dash given by the motorcycle rider which was insured with the respondent no. 3-

Insurance company.

8. It is claimants case that the deceased was working as laborer and stitching gony bags and earning Rs. 19,600/- per month. To prove the income of the deceased, the claimant have examined claimant no. 1 and employer-PW2-Sanjay Mali at Exhibit-51. He has stated that the deceased was his employee and working as hamal and he was giving him Rs. 700/-. He was not paying him wages for holidays. Considering evidence on record, at the time of incident, the deceased was 45 years old. He was maintaining his family of four persons including himself. Hence, I am considering his notional monthly income at Rs. 15,000/- per month.

9. As per the view of Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi 2017 ACJ 2700 (SC)***, the claimant is entitled for 30% future prospects. As per the view of Hon'ble Apex Court, in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC)***, each claimant is entitled for Rs.48,000/- as consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate.

10. Considering above calculations, the claimants are entitled for following compensation:

Monthly Salary	Rs.15,000/-
Annual Income	Rs.1,80,000/-
Add: 30% future prospects	Rs.54,000/-
Total income	Rs.2,34,000/-
Multiplier 12 (Rs.2,34,000/- X 14)	Rs.32,76,000/-
Personal Deduction 1/3rd	Rs. 10,92,000/-
	Rs. 21,84,000/-
Loss of consortium Rs.48,000/- X3 (for 3 Claimants)	Rs.1,44,000/-
Funeral Expenses	Rs.18,000/-
Loss of Estate	Rs.18,000/-
Total amount of compensation	Rs.23,64,000/-

11. In view of above, I pass following order:

ORDER

- I. Appeal is allowed.
- II. The appellant/claimant is entitled for compensation of **Rs.23,64,000/-** @ 7.5% interest from the date of filing claim petition till realization of the amount.
- III. The Respondent No.3 - Insurance Company shall deposit the compensation amount along with accrued interest thereon, within six weeks after receipt of this order.
- IV. The appellant/claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
- V. The claimant shall pay deficit Court fees on enhanced amount, if any, as per Rule.

VI. Record and Proceedings be sent back to the Tribunal.

12. In view of the above, the appeal is allowed and disposed off.
13. All pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)