

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

SHANTANU
SHANKARSA
DHUDUM

FIRST APPEAL NO. 670 OF 2019

Digitally signed
by SHANTANU
SHANKARSA
DHUDUM
Date:
2025.12.25
15:11:33 +0530

Bajaj Allianz General Insurance Co. Ltd.]
Having Its office at 2-3 First Floor,]
Generations, Nr Collector Office, Powai Naka,]
Sadar Bazar, Satara – 415001.]
Through Its Authorized Signatory at 1st Floor,]
Tower 1, Commerzone, Samrat Ashok Path,]
Yerwada, Pune - 411006]

.... Appellant
(Original
Insurer)

Versus

1. Vijaya Vasant Dhumal]
Aged 56 years presently, Occu: Household,]
2. Abaso Vasant Dhumal]
Aged 38 years presently, Occ: Agriculture,]
3. Satish Vasant Dhumal]
Aged 34 years, presently, Occu: Agriculture,]
4. Nanaso Vasant Dhumal]
Aged 36 years presently, Occu: Driver]

All r/o. Narsinhapur, Tal. Walva, Dist: Sangli.]
5. Bhola Umaji Avale]
Aged 36 years presently, Occu: Driver,]
R/o. Narsinhapur, Tal. Walva, Dist: Sangli.]
6. Sunil Shivaji Salunkhe]
Aged 36 years presently, Occ: Vehicle Owner,]
Since deceased thro' hos Lrs]

(a) Sunita Sunil Salunkhe]
Age: 46 years present, Occu: Household,]

(b) Shivraj Sunil Salunkhe]
Age 25 years present, Occ: Education,]
R/o. Narsinhapur, Tal. Walva, Dist: Sangli]

.... Respondents
(Resp. No.1 to
4 Original
Claimants)
Resp. Nos.5-6
Original Opp.
Parties.)

Mr. Devendranath S. Joshi, Advocate for the Appellant – Insurance Company.

Mr. Umesh H. Pawar, Advocate for Respondent Nos.1 to 4 - Claimants.

CORAM : SHIVKUMAR DIGE, J.

DATE : 2nd DECEMBER, 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 deceased died due to fall of an old wall on him and not in the accident as alleged by the Claimants. The evidence of DW-2, Dr. Hemlata Joshi, shows that when the deceased

was admitted in their hospital, in medical papers, it is mentioned that he died due to head injuries on construction site. Learned counsel further submitted that there is delay of 64 days for lodging the F.I.R., but these facts are not considered by the Tribunal, and requested to allow the appeal.

3. It is contention of learned counsel for the Respondents – Claimants that the deceased died due to sandwiching between truck and trailer of the tractor. The truck suddenly moved in reverse direction and pressed the body of the deceased. The post-mortem report supports the Claimants’ case. There are statements of the eye witnesses which supports the claimants case. Learned counsel further submitted that initially, AD was registered at Karad City Police Station, thereafter, it was transferred to Islampur Police Station for further investigation, and after investigation F.I.R. was lodged. Therefore, there is no delay in lodging the F.I.R. Learned counsel further submitted that 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 impugned judgment and order passed by the Tribunal.

5. It is Claimants’ case that on 16th June, 2012 at about 4:00

p.m., the deceased was standing on the road near his brother's house, Respondent No.6, who was driving truck, reversed the vehicle and the truck dashed against the deceased. Due to dash, the deceased sustained injuries and later succumbed to injuries. The deceased was admitted in Krishna Hospital, Karad, thereafter, AD was registered at Karad City Police Station. Then, it was transferred to Islampur Police Station, and after due investigation, an F.I.R was registered against the driver of offending truck.

6. To prove its case, the Claimants have examined Sampat Parit, Dhanaji Mane and Ramesh Dhumal, the eye witnesses to the incident. They have stated that at the time of incident, the deceased was standing on the road while some construction was going on. The truck loaded with sand was being reversed on the road, and it suddenly came backwards and hit the deceased. All these three witnesses have stated that the accident occurred due to negligence of the truck driver.

7. In cross-examination, they have admitted that they were not aware whether they had stated the details before the police about the said incident. To prove their defence, the insurance company has examined DW-1 Dr. Hemlata Joshi. She has stated that on 16th June,

2012, the deceased was admitted in their hospital in a dead condition, and was examined by Dr. Sanket. Based on the documents available in the hospital, it was recorded that the deceased died due to head injuries at the time of construction work. In cross-examination, she admitted that she had neither examined the deceased nor seen him.

8. It is contention of learned counsel for the Appellant that the death of the deceased is caused by the fall of an old wall on him and the evidence of DW-1 supports this claim.

9. In my view, the postmortem report of the deceased is produced on record, it shows that cause of death was asphyxia and chest compression injury. The Column No.17 also shows that there is abrasion on the body. Now, the question remains whether the deceased died due to fall of old wall on him or due to dash by the truck. The DW-1 has stated that the deceased died due to head injury, but postmortem report contradicts her statement showing that the deceased died due to compression of chest. If it is assumed that the old wall fell on the deceased, the question remains about compression of chest. The postmortem report supports the Claimants' case that deceased died due to compression of chest by sandwiching between tractor-trailer and truck. Though, there is delay of 64 days for lodging

the F.I.R., but it appears that AD report was immediately registered, and subsequently transferred from Karad City Police Station to Islampur Police Station, so there was no delay on the part of the Claimants. The insurance company has neither examined the driver of offending vehicle nor the investigating officer to prove its case.

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

ORDER

- i. The appeal is dismissed
 - ii. The 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 Rule.
 - iv. Record and Proceeding be sent back to the Tribunal.
11. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)