

Harish

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1870 OF 2003**

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Shekhar Bandu Sutar
Aged 26 yrs., Occu.Labour,
R/o. Herwad, Tal.Shirol,
District - Kolhapur.

...Appellant

Versus

1. Vishnu Bhagoji Mungale,
mjaor, Occ.Rickshaw owner,
R/o. 52/B, Tolaja Bhavani Housing Society,
Radhanagari Road, Kolhapur.
2. United India Insurance Co.Ltd.
Branch No.8, Ganpati Kripa,
1st Floor, Shahupuri, 1st Lane, Kolhapur.
3. Prakash Laxman Pawar,
Major, Occu.Driver,
R/o.Mahavir College Zopadpatti,
Kolhapur.

...Respondents.

Mr. Sourabh Patil i/b Tejpal Ingale a/w Aditya Patil Advocate for the
Appellant.
None for the Respondents.

**CORAM : SHIVKUMAR DIGE, J.
DATE : 1st DECEMBER, 2025**

JUDGMENT :

1. This appeal is preferred by the appellant against the judgment
and order passed by the Motor Accident Claims Tribunal, Kolhapur,

(for short “the Tribunal”).

2. It is contention of learned counsel for the appellant-claimant that due to accidental injury, the claimant has suffered fracture injury to his leg and the rod was implanted below the knee of leg, but the Tribunal has not considered this fact and has dismissed the claim petition on the ground that the rider of motorcycle on which the appellant was riding as pillion was not made as party respondent. The driver of the rickshaw was not possessing valid driving license, no injury certificate is produced by the appellant-claimant on record to prove his injury. Learned counsel further submits that the observations of the Tribunal are erroneous as the appellant-claimant was riding as pillion. It is settled principle of law that claimant can claim compensation from any of tortfeasor. Due to accident the appellant-claimant has suffered permanent physical disability. Hence, requested to allow the appeal.

3. Though respondents are served including respondent-insurance company, none present for the respondents. The appeal is of the year 2003 and the accident date is of the year 1997, hence, I am deciding this appeal on merit.

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

5. It is appellant-claimant's case that on 5th January, 1997 at 11.45 a.m. the appellant-claimant was traveling on motorcycle driven by his friend Chandrakant Patil. When they reached the spot of accident, the offending rickshaw came from opposite side and gave dash to the motorcycle. Due to dash, the appellant-claimant sustained grievous injuries. He was admitted in the hospital for 22 days. The offence was registered against the offending rickshaw driver. The driver of offending rickshaw did not step into witness box to prove the negligence of motorcycle rider. The Tribunal has considered the deposition of PW-1 Police Head Constable namely K. K. Katti at Exhibit-56 of Laxmipuri Police Station, Kolhapur. He has stated that at the time of accident, the driver of offending rickshaw was not possessing valid driving license. I am unable to understand the observations of the Tribunal as the Police Head Constable is not authorized officer to say about driving license. The insurance company should have examined the witness from concerned RTO Office to prove that the driver of offending rickshaw was possessing valid driving license or not.

6. To prove the disability, the appellant-claimant has examined Dr. Sukumar Magdum. He has stated that after the accident, the appellant-claimant was admitted in his hospital for 22 days. There

was pus injury. He charged bill of Rs.3,160/- to the appellant-claimant and rod was fixed in his leg. There is no reason to disbelieve the evidence of this witness. The appellant-claimant has not produced disability certificate, but he has sustained injury to his leg and he was admitted in hospital. Considering this fact, I am considering Rs.20,000/- as total compensation including medical expenditure, pain and suffering as compensation to the appellant-claimant and I pass following order :

O R D E R

- I. The appeal is allowed.
 - II. The appellant-claimant is entitled for compensation of Rs. 20,000/- at 7.5% interest rate from the date of filing claim petition till realization of the amount.
 - III. The respondent-insurance company shall deposit the compensation amount along with accrued interest thereon within a period of six weeks from date of receipt of this order.
 - IV. The appellant-claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - V. Record and proceeding be sent back to the Tribunal.
7. Appeal stands disposed off in the above terms.
 8. All pending applications, if any, also stand disposed off.

[SHIVKUMAR DIGE, J.]