

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.513 OF 2018**

Mahipati Shripatrao Bhosale
Age-47 years, Occ: Mason,
R/at Post Warkhedi, Taluka-Panhala,
District-Kolhapur
Versus

.....Appellant

1 Mangal Pandurang Ghevari
Age-46 Years, Occ: Housewife

2 Mr.Prakash Pandurang Ghevari
Age-18 Years, Occ: Service

3 Kamal Pandurang Ghevari
Age-14 years, Occ: Student
All R/at Post Bongewadi, Taluka-Panhala,
District-Kolhapur

4 Sadhu Keshav Ghevari
R/At As Above

5 Anusaya Sadhu Ghevari
R/at As Above

.... Respondents

Mr.Paras Yadav, Advocate for the Appellant.

Mr.Nikhil N. Pawar, Advocate for Respondent Nos.1 to 3/claimants.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JULY, 2025.

Judgment. :

1. By this appeal, the appellant is seeking relief to set-aside ex-parte order passed against him.

2. It is contention of learned counsel for the appellant that the appellant is the owner of the offending vehicle. The appellant could not

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file written statement, hence, the said claim petition was allowed by the Tribunal. The appellant wants to put his side but the Tribunal has not considered this fact and has rejected the application for setting-aside the ex-parte decree. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondents/claimants that sufficient chances were given to the appellant to file written statement but he failed to file. 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 judgment and order passed by the Motor Accident Claims Tribunal, Kolhapur, (for short "the Tribunal").

5. While dismissing the application for setting -aside ex-parte decree, the Tribunal has observed that no written statement order was passed on 22nd April 2009 and the claim petition was allowed on 14th July 2011. Since, the appellant failed to pay the amount of compensation, execution petition was filed. Sometime in the year 2012 and thereafter, the application was filed for setting-aside the ex-parte decree. The learned Tribunal further observed that the conduct of the applicant/appellant is not bona fide and it is delaying tactic to avoid the liability. The accident occurred in Year-2008. On that ground, the Tribunal has passed the impugned order in the year 2017. I do not find infirmity in it.

6. In my view, the accident occurred on 19th June 2008 and, thereafter, the application for setting-aside ex-parte order was filed in year-2011 that too after filing execution application. Moreover, the Tribunal has awarded compensation of Rs.2,70,500/-. If the ex-parte order is set-aside, it will again take time and it will be additional burden on the appellant to pay compensation with interest.

7. In view of above, I pass the following order :

ORDER

(1). The appeal is dismissed. No order as to cost.

8. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)