

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 372 OF 2024
WITH
INTERIM APPLICATION NO. 30432 OF 2022

Mr. Krishna Yashwant Akal
Age-Major, Occu-Business
R.o – Thikpurli, Taluka -Radhanagari
District-Kolhapur

...Appellant

Versus

1. Tukaram Mhadu Patil
Age – 54 R/o – Pungao,
Taluka – Radhanagari, District – Kolhapur

2. Suresh Dwarkanath Deokar
Age- Major, R/o Are, Taluka-Guhagar,
District-Ratnagiri

3. Manjur Saiful Begulji
R/o-Turambe, Taluka-Radhanagari,
District-Kolhapur

4. Sagar Vilas Patil
Occu-Driver, R/o Sonali
Taluka-Radhanagari, District-Kolhapur

....Respondents

Mr. Kedar P. Lad for the appellant
Mr. Shrikant H. Yadav for the respondents

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th NOVEMBER, 2025.

ORAL JUDGMENT:

1. This appeal is preferred by the appellant-original opponent
no. 2 against the Judgment and Order dated 14th September 2017

passed by Motor Accident Claims Tribunal, Kolhapur (for short 'The Tribunal').

2. It is contention of learned counsel for appellant that on the day of incident, the appellant was not owner of the offending vehicle. The Tribunal has observed this fact but has fixed liability on the appellant, which is erroneous. Learned counsel further submitted that the appellant had purchased the offending vehicle from original opponent no. 1 and thereafter, it was sold to the opponent no. 3. The opponent no. 3 sold it to another person who was not party before the Tribunal. On the day of incident, the said vehicle was not in possession of the opponent no. 2 but this fact is not considered by the Tribunal. Hence, requested to remand the matter for proper adjudication.

3. Learned counsel for respondent-claimants submitted that the Tribunal has passed well reasoned order. No interference is required in it. Learned counsel further submitted that if this Court is inclined to remand the matter for fresh hearing, the respondent-claimants be permitted to withdraw 35% amount alongwith accrued interest thereon deposited by the appellant.

4. I have heard both learned counsel, perused the impugned

Judgment and Order. While fixing the liability on the appellant and original opponent no. 4, the Tribunal has observed that though on the date of incident, the offending vehicle was not standing in the name of appellant, the opponent no. 3 did not appear and has not filed the written statement. On that ground, the Tribunal has fixed liability on the appellant and opponent no. 4. In my view, the Tribunal has specifically observed that on the date of incident, the offending vehicle was not standing in the name of the appellant and RTO record supports it. Then, the Tribunal has wrongly fixed the liability on the appellant. To give fair chance to all parties to prove their case, I deem, it is a fit case to remand and I pass following order:

ORDER

- I. The Appeal is partly allowed.
- II. The impugned Judgment and Order dated 14th September 2017 passed by Motor Accident Claims Tribunal, Kolhapur in First Appeal No. 372 of 2024 is quashed and set aside.
- III. The matter is remanded back to the Tribunal for fresh hearing.
- IV. All the parties are permitted to lead evidence in support of their case.

V. The learned Tribunal shall decide the matter on its own merit, preferably within eight months, without being influenced by the observations of this Court,

VI. The appellant is permitted to withdraw balance 50% amount deposited before the Tribunal.

VII. The amount withdrawn by the claimants be adjusted in the compensation awarded to the respondent-claimants.

VIII. If the respondent-claimants received the said amount, the respondent-claimants shall return the said amount to the appellant, after disposal of the Appeal, if liability is not fixed on him.

IX. Appeal is disposed off in above terms.

X. Record and proceedings be sent back.

5. In view of disposal of appeal, all pending applications, if any, are disposed off accordingly.

(SHIVKUMAR DIGE, J.)

IRESH
MASHAL

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