

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1221 OF 2008**

Padmavati Construction,
Prop. Snehal Subhas Mithari,
Age : Major, Occupation : Business
R/o. 1117, E Ward, Shahupuri,
Ahead Panch Bungalow,
Near Four Wheeler, Jatra, Kolhapur.
versus

Appellant

- 1 Jayshree Bahubali Patil
Age : 44 years, Occupation : House,
Hold, R/o. Chinchwad Tal. Karvir,
Dist. Kolhapur.
- 2 Sonali Bahubali Patil,
Age : 20 years, Occupation : Education.
- 3 Mayur Bahubali Patil
Age 15 years, Occupation : Education.
- 4 Aarti Bahubali Patil,
Age ; 9 years, Occupation Nil.

Respondents

(Respondent Nos.3 and 4 are minors, hence,
through their legal minor guardian mother –
Respondent No.1)

(Orig.
Applicants)

Mr. Prajakt M. Arjunwadkar, Advocate for the Appellant.
None for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd JULY, 2025.

Oral Judgment:

1. The issue involved in this appeal is, boiler cannot be considered as Motor Vehicle.

2. It is contention of learned counsel for the appellant that the deceased dashed boiler which was stationed on the road. The boiler cannot be considered as Motor Vehicle as per the definition provided under the Motor Vehicles Act, 1988 (for short "the M.V.Act"). Learned counsel further submitted that as per Section 2(28) of the M.V.Act, the Motor Vehicle shall include the chassis but boiler does not include chassis but this fact is not considered by the Tribunal and has allowed the claim petition which is erroneous. Hence, requested to allow the appeal.

3. Though respondents are served, none present for the respondents. The appeal is of the year 2008 and the date of accident is 16th December 2003. Hence, I am deciding this appeal on merit.

4. I have heard learned counsel for the appellant, perused the judgment and order passed by Motor Accident Claims Tribunal, Kolhapur, (for short "the Tribunal").

5. It is claimants' case that on 16th December 2003, the deceased was riding motor cycle from Ichhalkaranji to Kolhapur. At 1.30 am, when he reached near Rui Fata, he dashed heavily on the iron boiler attached to a road roller, which was parked on the left side of the road. Due to dash, he sustained injuries and died while taking treatment.

6. While dealing with the issue whether the boiler can be considered as Motor Vehicle or not, the Tribunal has observed that the boiler is not a vehicle, however, when the boiler is attached to the road roller, it is propelled by the road roller. Thus, the road roller is propellant of

the boiler. The M.V.Act does not recognise the relationship between the propellant and a propelled and the set of vehicles is treated as one vehicle under the M.V.Act. Section 2(39) of the M.V.Act defines "Semi Trailer" as under :

"semi-trailer" means a vehicle not mechanically propelled (other than trailer), which is intended to be connected to a motor vehicle and which is so constructed that a portion of it is super-imposed on, and a part of whose weight is borne by, that motor vehicle;

7. The learned Tribunal further observed that the boiler itself has no mechanical force or any other energy for motion. The boiler is intended to be connected to the Motor Vehicle and it is super imposed on the propellant. The boiler can also be pulled up by a bullock cart. Then, it cannot be treated as a vehicle under the Act. The Act has basic ingredients that it is to be mechanically propelled with the power of propulsion. In the present case, the boiler was attached to the road roller, hence, it was in the form of one vehicle. On that ground, the Tribunal has fixed the liability on the appellant. I do not find infirmity in it.

8. In my view, the accident occurred at night time. No precautions were taken when the boiler and road roller were stationed on the road. The accident occurred due to dash by the deceased to the boiler as it was not visible in dark. The Tribunal has passed well reasoned order, no interference is required in it.

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

ORDER

1. The appeal is dismissed. No order as to cost.
 2. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 3. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
 4. Record and proceedings be returned to the Tribunal.
10. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)