

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 651 OF 2003
WITH
CROSS OBJECTION (ST) NO. 21625 OF 2016

Superintending Engineer,]
 Sangli Irrigation Circle, Sangli]
 Wrongly described by the Orig. Applicants in]
 M.A.C.P. No.555/1999 Superintending]
 Engineer Irrigation Department, (Tembhu]
 Project), Satara Division, Satara Sub Division]
 No.1 Karad.]

....

Appellant
Orig. Opp.
No.1.

Versus

1. Sunanda Balasaheb Kadam]
 Age: Adult, Occupation : Household]
2. Abhijit Balasaheb Kadam,]
 Aged: 14 years, Occupation : Education]
3. Amar Balasaheb Kadam]
 Age: 12 Years, Occupation: Education]
4. Ashwini Balasaheb Kadam]
 Age: 10 Years, Occupation : Education]
5. Bhimrao Govind Kadam,]
 Aged 62 Years, Occupation: Nil]
6. Chandrabhaga Bhimrao Kadam]
 Aged: 57 years, Occupation: Household]
 Respondent Nos.2 to 4 minors through their]
 guardian Respondent No.1 Sunanda all R/o.]
 Shenoli,m Taluka Karad, District : Satara.]
7. Anil Maruti Todkar]
 Age: Major, Occupation: Tempo Owner]

Original
Applicants

R/o. Venegaon, Tal. & District: Satara	]	
8. New India Assurance Co. Ltd.	]	Respondent
Branch Office at Satara, District: Satara.	]	Nos.7 & 8
		Original
		Opponents
		Nos.2 & 3.
		 Respondents

Mr. Vilas Tapkir, Advocate for the Appellant.
Mr. Pramod Pawar, Advocate for Respondent Nos.1 to 6.
Mr. Sharad Bhosale i/b Mr. Dilip Bodake, Advocate for Respondent No.7.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th JULY, 2025.

JUDGMENT. :

1. This appeal is preferred by the Appellant- State against the judgment and order passed by the Motor Accident Claims Tribunal, Satara (for short, "the Tribunal"). The Respondents - Claimants also have preferred cross objection against the same judgment and order. As Appeal and cross objection are against the same judgment and order, I am deciding it by this common judgment.

2. It is contention of learned counsel for the Appellant – State that accident occurred due to sole negligence of the driver of offending tempo. However, the Tribunal has fixed 75% liability on

jeep of the Appellant, which is erroneous. Hence, requested to allow the appeal and dismiss the cross objection.

3. It is contention of learned counsel for the Respondents – Claimants that the accident occurred due to sole negligence of the offending jeep, which gave dash to the tempo. The F.I.R. was lodged against the driver of offending jeep. He was charge sheeted, but Tribunal has fixed 25% negligence on the driver of offending tempo, which is erroneous. Hence, requested to dismiss the appeal and allow the cross objection.

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

5. It is prosecution's case that on 19th April, 1999, the Claimants were proceeding in tempo carrying household articles from Venegaon to Satara. When the tempo reached near ST stand, one Jeep bearing registration No. MH-11/H-5528 came in fast speed. The driver of jeep, drove in a rash and negligent manner and gave dash to the tempo by overtaking another vehicle. Due to said dash, the claimants suffered injuries. The offence was registered against the driver of jeep.

6. To prove the negligence of the driver of offending jeep, the

claimants have been examined. They have stated that the accident occurred due to sole negligence of the driver of offending jeep. While dealing with the issue of negligence, the Tribunal has observed that, there was head on collision between two vehicles. On that ground, the Tribunal has fixed 75% negligence on driver of offending jeep and 25% negligence on driver of tempo. I am unable to understand the observations of the Tribunal, as driver of offending jeep did not step into witness box to prove the negligence of driver of tempo. Moreover, Claimants who witnessed the accident have stated that, the accident occurred due to sole negligence of the driver of jeep. The F.I.R. was lodged against the driver of jeep. The Tribunal should have fixed 100% negligence on the driver of jeep. Hence, I am considering that the accident occurred due to sole negligence of the driver of offending jeep.

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

ORDER

- i. The Appeal No. 651 of 2003 is dismissed.
- ii. The Cross Objection (St.) No.21625 of 2016 is allowed.
- iii. The Claimants are entitled for 25% compensation

amount @ 7.5% interest per annum from the date of filing claim petition, till realization of the amount.

- iv. The Appellant – State shall deposit the 25% compensation amount along with accrued interest thereon, within four weeks after receipt of this order.
 - v. The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - vi. The Claimants shall pay deficit Court fees, if any, as per Rules.
 - vii. The statutory amount in Appeal No.651 of 2003 be transmitted to the Tribunal. The parties are at liberty to withdraw it, as per Rules.
 - viii. Record and Proceedings be sent back to the Tribunal.
8. All pending applications, if any, also stand disposed of.

(SHIVKUMAR DIGE, J.)