

Harish

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1169 OF 2015**

HARISH
VITHAL
CHAUDHARI

Digitally signed
by HARISH
VITHAL
CHAUDHARI
Date:
2025.12.04
14:13:55 +0530

1. Smt. Anita Subhash Bagal
Age :- 36 years, Occu. Household,
2. Kumar Prem Subhash Bagal
Age-7, Occ-Nil,
3. Kumari Prachi Subhash Bagal
Age-4 yrs, Occ-Nil
Applicant No. 2& 3 minor
through their mother Applicant No.1,
4. Dashrath Muguthrao Bagal
Age-65, Occ : Atriculturist,
5. Sou. Parubai Dashrath Bagal
Age-65, Occ :Household,
Applicant No. 1 to 5 r/o
Yelmarwadi, Tal. Khatav, Dist- Satara ...Appellants

Versus

1. Shri. Sunil Shivram Jaigude
Age-Adult, Occ-Business
R/o1171, Bramanshahi
Tal-Wai, Dist- Satara
2. Bajaj Allianz General Insurance
Co.Ltd. Registered office,
GE plaza, Airport road, Yerawada
Pune-411006 ...Respondents

Mr. Sangramsinh Yadav a/w Mr. Pruthviraj Raorane a/w Ms.

Ankita Killedar & Ms. Shruti Jadhav for the Appellant.

None for Respondent No. 1-Ex-parte.

Ms. Yogita Deshmukh (through VC) for Respondent No. 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th NOVEMBER, 2025

JUDGMENT :

1. This Appeal is preferred by the appellants-claimants against the judgment and order dated 2nd July, 2015 passed by the Commissioner for Workmen's Compensation And Judge, Labour Court, Satara (for short "the Tribunal") for enhancement of compensation.

2. It is the contention of learned counsel for the appellants-claimants that the deceased was murdered while he was on duty. The offending vehicle was insured with the respondent No.2-insurance company. The insurance company is liable to pay compensation, but the Tribunal has exonerated the insurance company and has directed the employer to pay compensation, which is erroneous and requested to allow the appeal.

3. Though the respondent No.1 is served, none present for respondent No. 1. Hence, matter is proceeded ex-parte against

respondent No. 1.

4. It is contention of learned counsel for respondent no. 2-insurance company that the appellants-claimants cannot be considered as aggrieved party against the impugned judgment and order passed by the learned trial Court as the learned trial Court has passed order against the employer. The employer is the aggrieved party. Learned counsel further submits that the death of the deceased is not caused by way of accident. He was murdered, so, it cannot be considered as accident. The insurance company is not liable to pay compensation. The learned trial Court has passed well reasoned order, no interference is required in it and requested to dismiss the appeal.

5. I have heard both the learned counsel. Perused the impugned order and judgment passed by the learned trial Court.

6. It is claimant's case that the deceased Subhash Bagal was working as driver on truck of the opponent No. 1. On 12th July, 2011, he was proceeding on Kochi Mumbai route in said truck.

When his truck entered the jurisdiction of Yellpur Police Station, it was stopped by unknown persons. He was kidnapped and killed. FIR was lodged and his dead body was found on 14th July 2011. It is contention of learned counsel for the claimants before the trial Court that the deceased died while discharging his duty as driver. At the time of incident, the said truck was insured with the respondent No. 2-insurance company. Hence, employer and insurance company both are jointly and severally liable to pay compensation. While dealing with the issue of payment of compensation, the trial Court has observed that the death of the deceased occurred due to murder and not by accident. Therefore, the insurance company is not liable to pay compensation and exonerated the insurance company. I am unable to understand the observations of the trial Court, as admittedly, the deceased was the employee of the respondent No. 1. The truck on which the deceased was working as driver was insured with the respondent No.2-insurance company. When the deceased was driving the said truck, it was stopped by unknown persons. The deceased was kidnapped and then murdered. The incident occurred during the course of the

employment. As per section 3(1) of the Workmen's Compensation Act, 1923, if the incident occurred during the course of the employment, the employer is liable to pay compensation. The insurance of the driver was covered under the insurance policy. Hence, the insurance company is liable to pay compensation.

7. It is contention of learned counsel for the respondent No. 2-insurance company that the appellants-claimants are not aggrieved party. In my view, it is a specific case of the appellants-claimants that the employer and insurance company are liable to pay compensation, but the learned trial Court has exonerated the insurance company. It is contention of learned counsel for the insurance company that as per the provisions of Workmen's Compensation Act, 1923, it is primary responsibility of the owner to satisfy the claim of the claimants. In my view, there is no doubt that it is the duty of employer to pay compensation, but in present case, the truck was insured with the respondent No.2-insurance company. The death of the deceased occurred while on duty. He was covered under insurance policy. In present case, murder is also form of

accident, as the said incident happened suddenly. Hence, insurance company is liable to pay compensation. In view of above, I pass following order.

ORDER

- I. Appeal is allowed.
 - II. The order passed by the trial Court dismissing the claim petition against respondent No.2-insurance company is quashed and set aside.
 - III. The respondent No.2-insurance company shall deposit the compensation amount along with accrued interest thereon fixed by the trial Court within eight weeks after receipt of this order.
 - IV. The appellants-claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - V. Record and Proceedings be sent back to the Tribunal.
8. In view of the above, the appeal is allowed and disposed off.
9. All pending applications, if any, stand disposed off.

[SHIVKUMAR DIGE, J.]