

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 276 OF 2006

- | | | | |
|------|--|------------------|--|
| | Sivappa Advyappa Badage |) | |
| | Age – 56 years, Occupation business, |) | |
| | R/o. Miraj, Plot No. 20, Suny Bungalow, New |) | |
| | Residential Colony, Miraj |) | |
| | Amendment carried out as per Court's order dated |) | |
| | 26/9/2007 in Civ.Appln. No. 1088/2007. |) | |
| | Shivappa Advyappa Badage |) | |
| | Since deceased by legal heirs & Representatives : |) | |
| 1(a) | Smt. Sushila Shivappa Badage, |) | |
| | Age 63 yrs. |) | |
| | R/o. Sunny Bungalow, Shivaji Nagar, |) | |
| | Miraj, Dist - Sangli |) | |
| 1(b) | Suraj Sanjay Badage |) | |
| | Age 13 yrs., Minor through guardian Grandmother |) | |
| | No.1(a) |) | |
| 1(c) | Sou. Shalan Shivanand Doddannwar |) | |
| | Age 41 yrs. |) | |
| | R/o. Best Officers Quarters, |) | |
| | Room No.2, Near Domodar Hall, |) | |
| | Suparibaug, Parel (Mumbai) - 12 |) | |
| 1(d) | Sou. Pushpa Rajendra Kamate |) | |
| | Age 38 yrs. |) | |
| | R/o. 1913/3, 'C' – Block, Sahakarnagar, 4 th Main |) | |
| | Road, Bangalore - 92 |) | |
| 1(e) | Sou. Bharati Manoj Patil |) | |
| | Age 35 yrs. |) | |
| | R/o. Torna Housing Society, C/15, R.H.24, Opp.- |) | |
| | Kasuturi Market, 'G' Block, Chinchwad (Pune) |)... Appellants | |
| | Versus | | |
| 1 | New India Assurance Company Ltd. |) | |
| | Branch Office, Balkrishna Complex, 1 st Floor, |) | |
| | Shivaji Marg, Miraj, District - Sangli |) | |
| 2 | Kishor Dadasaheb Jamdar, Age- 38 yrs., |) | |
| | Occu. Business, Madhave Talkies, Budhwar Peth, |) | |
| | Miraj |)... Respondents | |

.....
Mr. Tejpal S. Ingale, Advocate for the Appellants.
Smt. Urmila K. Sanil, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.
DATED : 20th JANUARY, 2025.

ORAL JUDGMENT:

1. This appeal is preferred against the dismissal of claim petition.
2. It is contention of learned counsel for the appellants / claimants that the Tribunal has dismissed the claim petition of the claimants on the ground that deceased himself was driving the offending vehicle and he gave dash to the tree and he is not entitled for compensation as he himself was negligent. It is erroneous. Learned counsel further submitted that the Tribunal should have awarded consortium amount. Learned counsel further submitted that at the time of accident the offending vehicle was insured with the respondent No.1 /Insurance Company, hence requested to allow appeal.
3. Learned counsel for respondent No.1/ Insurance company submitted that accident occurred due to sole negligence of the deceased hence order passed by the Tribunal is legal and valid. No interference is required in it and requested to dismiss the appeal.
4. I have heard both the learned counsel. Perused Judgment and Order passed by Motor Accident Claims Tribunal, Sangli (for short “the

Tribunal”). While dismissing the claim petition, the Tribunal has observed that accident occurred due to negligence of the deceased himself and for his own negligence he cannot claim compensation from owner or the insurer. On that ground the Tribunal has dismissed the claim petition. I do not find infirmity in it. In my view, as accident occurred due to own negligence of the deceased, hence I do not find merit in the appeal and I pass following order.

ORDER

- (i) The appeal is dismissed.
- (ii) Pending applications, if any, stands disposed of.
- (v) R & P be sent back to the Tribunal.

(SHIVKUMAR DIGE, J.)