

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1683 OF 2025

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The Divisional Manager,]
United India Insurance Co. Ltd.]
Division Office Navi Peth, Solapur]
Taluka and Dist. Solapur (Insurer of]
Truck No.MH-13/AJ-4224 & Trailer]
No. MH-13-T-6317]
Policy No.1627013114P105545728]
Period 21.10.2014 to 20.10.2015]

Also having office at]
Motor Third Party Hub, Union Co-op]
Building, 5th Floor, Sir P.M. Road, Fort,]
Mumbai 400023] ...Appellant

Versus

1. Savita W/o. Sanjay Patil]
Age 38 years, Occ: Household & Service]
R/o Upalai Road, Barshi, Tal Barshi,]
District: Solapur]

2. Jui D/o Sanjay Patil]
Age: 14 years, Occ: Education]
R/o as above.]

3. Parth S/o Sanjay Patil]
Age 9 years, Occ: Education]
R/o as above.]

4. Vinayak S/o Changdeo Patil]
Aged: 65 years, Taluka Barshi,]
District: Solapur]

DEAD

5. Anusuya w/o Vinayak Patil]
Age: 60 years, Occ: Nil,]
R/o as above.]

Claimant No.2 and 3 are minor and]
under guardianship of their mother i.e.]
Claimant No.1.]

6. Pandurang Ajinath @ Adinath Miskin]
Age – 50 years, Occ: Business]
R/o Vairag, Taluka Barshi,]
District: Solapur,] **Original**
(Owner of Tractor No. MH-13/AJ-4224] **Opp. Party**
& Trailer No. MH-13-T-6317)]

...Respondent(s)

Ms. Varsha Chavan, Advocate for the Appellant – Insurance Company.
Mr. R. S. Alange a/w Mr. V. S. Kupawade, Advocate for the
Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th DECEMBER, 2025.

ORAL JUDGMENT. :

1. This appeal is preferred by the Appellant – Insurance Company against the judgment and order passed by the Motor Accident Claims Tribunal, Barshi (for short, “the Tribunal”).

2. It is contention of learned counsel for the Appellant – Insurance Company that the accident occurred due to sole negligence of the deceased as he gave dash to the stationed offending trailer from

backside. Learned counsel further submitted that no cogent evidence is produced on record to show that the deceased was working as a Senior Clerk in DCC Bank, Branch Malegaon and getting salary of Rs.21,000/-. Learned counsel further submitted that the Claimant No.1 is working as Clerk and she has independent source of income, therefore, she cannot be considered dependent on the income of the deceased. Learned counsel further submitted that the mother and father of the deceased have independent source of income, hence, they also cannot be considered as dependent on the income of the deceased. The Tribunal has applied wrong multiplier. The Claimants have received compensation under group accident policy, hence, the said amount must have been deducted from the compensation amount, and requested to allow the appeal.

She relied on *Nishant Singh and Ors. Vs. Oriental Insurance Company Ltd. Through Regional Manager and Ors. AIR 2018 SC 2118 and The New India Assurance Co. Ltd. Vs. Vivek Niwas Patil and Anr. in First Appeal No.168 of 2024.*

3. It is contention of learned counsel for the Respondents – Claimants that the accident occurred around midnight at 10:30 p.m. when the deceased was proceeding on motorcycle, the offending

trailer - tractor was stationed in the middle of the road without putting any sign that it was stationed. Due to dark, the deceased could not see the said trailer and gave dash to it from backside. Learned counsel further submitted that the deceased was working in DCC Bank and he was getting salary, to prove it, evidence is produced on record. Learned counsel further submitted that the Claimants were depending on the income of the deceased. Though widow of the deceased is working, it cannot be said that she is not entitled for compensation on the account of the death of the deceased. The Tribunal has awarded 25% future prospects, it should be 30%. Learned counsel further submitted that the Tribunal has awarded consortium amount on lower side and interest is awarded at 6%, it should be 9%, and requested to dismiss the appeal.

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

5. It is Claimants' case that on 10th December, 2014, the deceased was proceeding on his motorcycle on Tuljapur - Solapur road, the offending tractor with trailer was stationed in middle of the road. At about 10:30 p.m., the deceased dashed the said trailer from backside and got injured and was admitted in the hospital for around

two months. While undergoing treatment, he died.

6. It is contention of learned counsel for the Appellant that as the deceased gave dash to the offending trailer from backside, the accident occurred due to sole negligence of the deceased. Whereas, it is contention of learned counsel for the Respondents – Claimants that as trailer was stationed on highway, it was duty of the driver of offending trailer to put signals that it was stationed on the highway.

7. Admittedly, the truck was stationed on the road without any signal, no tail lamps or indicators were put on, accident happened around 10.30 p.m. when it was dark. In my view, any vehicle is stationed on the road as per the provisions of Central Vehicles Rules, it is obligation on the driver of said vehicle to put on parking lights or indicators of said vehicle.

“ Section 15 in the Rules of the Road Regulations, 1989:

15. Parking of the vehicle:-

(1) Every driver of a motor vehicle parking on any road shall park in such a way that it does not cause or is not likely to cause danger, obstruction or undue inconvenience to other road users and the manner of parking is indicated by any sign board or markings on the road side, he shall park his vehicle in such manner.

(2) A driver of a motor vehicle shall not park his vehicle:

- (i) at or near a road crossing, a bend, top of a hill or a humpbacked bridge;
- (ii) on a foot-path;
- (iii) near a traffic light or pedestrian crossing;
- (iv) in a main road or one carrying fast traffic;
- (v) opposite another parked vehicle or as obstruction to other vehicle;
- (vi) alongside another parked vehicle;
- (vii) on roads or at places or roads where there is a continuous white line with or without a broken line;
- (viii) near a bus stop, school or hospital entrance or blocking a traffic sign or entrance to a premises or a fire hydrant;
- (ix) on the wrong side of the road;
- (x) where parking is prohibited;
- (xi) away from the edge of the footpath.”

.....

“Regulation 28 of the Motor Vehicles (Driving)

Regulation:

Vehicle breakdown:

In case a vehicle with more than two wheels has broken down at a place where it can be recognised in time as a stationary obstacle,-

(i). the hazard warning lights of the vehicle shall be switched on immediately;

(ii). on highways and major roads with fast speed, reflective traffic warning triangles shall be placed at a distance of fifty meters behind the broken-down vehicle; and In present case, it shows that the driver of the said Truck has clearly violated all the rules and regulations of the Central Motor Vehicle Rules, Motor Vehicle Rules and the Rules of the Road and Regulation, 1989, and Regulations made under the Act.”

.....

“When any vehicle is stationed on the road at night time, as per Rule 109 of the Central Motor Vehicles Rules, 1989, proper precautions are necessary to be taken. It reads thus:-

109. Parking light:-

[Every construction equipment vehicle, combine harvester and motor vehicle] and every motor vehicle other than motor cycles and three wheeled invalid carriages shall be provided with one white or amber parking light on each side in the front. In addition to the front lights, two red parking lights one on each side in the rear shall be provided. The front and rear parking lights shall remain lit even when the vehicle is kept stationary on the road:

Provided that these rear lamps can be the same as the rear lamps referred to in rule 105 sub-rule (2): [Provided also that construction equipment vehicles [and combined harvesters], which are installed with food light lamps or sports lights at the front, rear or side of the vehicle for their off highway or construction operations, shall have separate control for such lamps or lights and these shall be permanently switched of when the vehicle is travelling on the road.]”

8.1 These rules states that front and rear parking lights shall remain lit when the vehicle is kept stationary on the road. In the present case, the tractor with trailer was stationed on the road but no parking lights were on. Due to dark, the deceased could not see stationed trailer and dashed it from backside. As per the Central Vehicle Rules, reflective traffic warning triangles shall be placed at a

distance of fifty meters behind the broken-down vehicle. No such triangles were kept, it shows that the driver of said trailer has clearly violated the rules and regulations of the Central Vehicles Rules.

8.2 Though offence was registered against the deceased, it cannot be said that the accident occurred due to negligence of the deceased, as the driver of the offending trailer did not take proper precautions when the vehicle was stationed on the road but this fact is not considered by the Tribunal.

9. It is Claimant's case that the deceased was working in DCC bank to prove his income the Claimants have examined DW-3 Shubhash Badgaonkar. He has stated that the deceased was working in DCC Bank, Branch Malegaon, as a Clerk.

10. In cross-examination, he has admitted that he has not brought any documents to show that the deceased was working in DCC Bank and he has not brought Authority Letter.

11. In my view, the salary slip of the deceased is produced on record shows that the deceased was working in DCC Bank. The DCC Bank is a Semi-Government Bank. Hence, I do not find merit in the contention that the deceased was not working in DCC Bank.

12. It is contention of learned counsel for the Appellant that the

Claimant No.1 is widow of the deceased and she is a working woman and getting salary and Claimant Nos.4 and 5 are mother and father of the deceased and they are getting independent income from agriculture land.

13. The widow of the deceased has stated in her evidence that she was dependent on income of the deceased. In my view, though the widow is a working woman, but she and parents of the deceased cannot be denied the compensation under accident claim policy, as the deceased was Karta of their family.

14. It is contention of learned counsel for the Appellant – Insurance Company that the Claimants have received compensation of Rs.6,00,000/- from group accident policy. It is settled principle of law that getting compensation from other policy cannot be deducted from the compensation under accident claim. Moreover, the Tribunal has awarded 25% future prospects, it should be 30% and the rate of interest as well as consortium amount is awarded on lower side.

15. It is contention of learned counsel for the Appellant that wrong multiplier is applied. In my view, as future prospects, consortium amount, as well as interest is awarded on lower side, it can be matched with amount of wrong multiplier.

16. I have gone through the case laws cited by the learned counsel for the Appellant – Insurance Company, the facts of the present case and cited case are different, hence, not applicable.

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

ORDER

- i. The appeal is dismissed.
 - ii. The Respondents – Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - iii. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
 - iv. Record and Proceeding be sent back to the Tribunal.
18. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)