

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1403 OF 2014**

	Jaysing Shamrao Kalke	)	
	Age 44, Occupation Driver	)	
	R/o. Kushire, Taluka Panhala	)	
	District Kolhapur	)	Appellant
	versus		
1	Baban Devappa Sarvade	)	
	Age 42 years, Occupation : Agriculture	)	
	R/O. Itkare, Taluka Walva	)	
	District Sangli	)	
2	Asmita Narayan Kekle	)	
	Age : Major, Occupation : Household	)	
	R/O. Indira Housing Society, Kabnoor	)	
	Ichalkaranji	)	
3	The Branch Officer	)	
	The Oriental Insurance Co. Ltd.	)	
	Branch – 204 Station Road, Opposite	)	
	Panchsheel Hotel, Kolhapur, District- Kolhapur	)	Respondent/s

Mr. Kuldeep U. Nikam, Advocate for the Appellant.

Ms. Harshada Rane i/b. Mr. Sanjay Krishnan, Advocate for the Respondent No.3-Insurance Company.

CORAM : SHIVKUMAR DIGE, J.

DATE : 7th JULY, 2025.

Judgment :

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

2. It is contention of learned counsel for the appellant that the motorcycle of the appellant was not involved in the accident. Initially, the

FIR was lodged against motorcycle bearing No. MH-12-1908 but later on, the said number was replaced with MH-09-1908. There is dispute about involvement of the appellant's vehicle but this fact is not considered by the Tribunal and has fixed liability upon appellant, which is erroneous, hence, requested to allow the appeal.

3. Though respondent No.1-claimant is served, none present for the respondent No.1-claimant.

4. The accident date is of the year 2006, hence, I am deciding this appeal on merit.

5. Learned counsel for respondent No.3-Insurance Company submitted that appropriate order be passed as respondent No.3 has been exonerated from paying the compensation as on the date of the accident, the cover of the offending motorcycle had expired.

6. I have both learned counsel, perused the judgment and order passed by the Tribunal.

7. It is claimant's case that on 31th December 2006 at about 6.15 pm, the deceased was walking by the left side of Pune Bangalore Highway within the limits of village-Itkare. When the deceased was crossing the road, a motorcycle bearing No.MH -09-1908 driven by the appellant gave dash to him from backside. Due to dash, the deceased sustained injuries and died.

8. To prove the negligence of the driver of the rider of the offending vehicle, the claimant has examined PW2-Bhimrao as an eye

witness. He has stated that the accident occurred due to sole negligence of the rider of the motorcycle. The offence was registered against the rider of the motorcycle. Though learned counsel for the appellant submitted that the said motorcycle was not involved in the accident and appellant is not liable to pay compensation but the rider of the motorcycle did not step into the witness box to prove that his motorcycle was not involved in the accident. Without any cogent evidence, this Court cannot consider the defense taken by the appellant. The Tribunal has passed well-reasoned order, I do not find infirmity in it and I pass following order :

O R D E R

1. The appeal is dismissed. No order as to cost.
2. The appellant is directed to deposit the compensation amount along with accrued interest thereon as directed by the Tribunal within four weeks from the receipt of the order.
2. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
3. Record and proceedings be sent to the Tribunal.
9. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)