

Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 43 OF 2025

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Reliance General Insurance Company Ltd.,
Office HDFC Bank, Lucky Chowk, Solapur,
(Notice be served upon Branch Manager)
Vagdari Road, Budhwar Peth,
Karanja Chowk, Akkalkot, Dist. Solapur

...Appellants

Versus

1. Smt. Vaishali Annasaheb Jadhav,
Age: 36 years, Occ. Household,

2. Chi. Yuvraj Annasaheb Jadhav,
Age: 15 years, Occ. Education,

3. Chi. Swaraj Annasaheb Jadhav,
Age: 11 years, Occ. Education,
(Resp. Nos. 2 & 3 being Minors
represented by their Natural Guardian
Mother i.e. Resp. No. 1)

4. Smt. Laxmi Nagnath Jadhav,
Age: 64 years, Occ. Household,
Nos. 1 to 4 are R/o. B/5, Abhishek Nagar,
Old Puna Naka, Solapur,

5. Shri. Vikram Sidram Jadhav,
Age: 35 years, Occ. Business.
R/o. 27/5, Nirale Wasti, Murarji Peth,
Solapur.

...Respondents

Mr. Avesh Ghadge i/b Akshay Kulkarni for the Appellant.
Mr. A. V. Alange for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 1st DECEMBER, 2025

JUDGMENT :

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

2. It is contention of learned counsel for the appellant that the accident occurred due to sole negligence of the deceased. He further submitted that the income of the deceased is considered on higher side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent/claimant’s that the accident occurred due to sole negligence of the driver of the offending vehicle. The deceased was running hotel and getting income of Rs.5,05,540/-per annum. On the basis of income tax returns, his income is considered. the Tribunal has passed well reasoned order. No interference is required in it and requested to dismiss the appeal.

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

5. It is claimant’s case that on 9th February, 2020, the deceased along with Lingappa Belambe was proceeding towards his house from

Samarth Hotel on motorcycle bearing No. MH-13-DG-1330. The deceased was pillion rider and Lingappa was riding it in high speed. When they reached in front of Kartik Cold Drinks on old Pune Naka to Solapur ST stand road, at that time, rider of motorcycle without observing the speed breaker, rashly and negligently drove vehicle, due to which, deceased got tossed in air and fell down on the road, due to which, he sustained grievous injuries and died while taking treatment. The offence was registered against the rider of motorcycle.

6. To prove the negligence of rider of motorcycle, the claimants have relied on police papers. The rider of motorcycle did not step into the witness box to prove the negligence of deceased. It is contention of learned counsel for the appellant that the deceased was under the influence of liquor and on speed breaker he fell down from the motorcycle as he was under the influence of liquor. To prove the defence, the insurance company has examined PW2-Sachin Baldawa in whose hospital, the deceased was admitted after the accident. He has stated that if any person sits on motorcycle under the influence of liquor, he may fell down and get injury. In cross-examination, he admitted that he does not know unless a blood test of the person is conducted, it cannot be verified whether he was under the influence of liquor or not. He further admitted that BNC test was done for

verifying alcohol in the blood. He admits that in his hospital the entry of the accident was taken as a medico legal case. He further admits that in the police papers, it is not mentioned that the deceased was under the influence of liquor.

7. Considering the evidence of this witness, it is not proved before the Tribunal that the deceased was under the influence of liquor. Hence, I do not find merit in contention of learned counsel for the appellant that the accident occurred due to negligence of the deceased. It is claimant's case that the deceased was doing hotel business by name Jujamata Maratha Khanaval, Murarji Peth, Solapur and earning Rs. 5,65,000/-p.a. from his business.

8. To prove the income of the deceased the claimants have examined the claimant no. 1 Vaishali. She has produced on record the income tax return of the deceased for the year 2019-20. It is at exhibit-46 to 49. It shows income of the deceased at Rs.5,05,540/- and he had paid income tax of Rs. 15,000/-. Considering the income tax return, the Tribunal has considered yearly income of the deceased at Rs.4,90,540/- I do not find infirmity in it. It is settled principle of law that while dealing with the issue of income, the income tax returns has to be considered. It is contention of learned counsel for the appellant that interest rate is granted at 9%. It is on higher side.

The Tribunal has awarded interest rate at 9% p.a. on the compensation amount, it is on higher side. Hence, I am considering it at 7.5%. In view of the above, I pass the following order :

O R D E R

- I. The appeal is partly allowed.
 - II. The respondents-claimants are entitled 7.5% on compensation amount instead of 9%.
 - III. The appellant is permitted to withdraw excess interest amount at 1.5% from deposited amount.
 - IV. The respondents-claimants are permitted to withdraw remaining deposited amount alongwith accrued interest there on.
 - V. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per rules.
 - VI. Record and proceeding be sent back to the Tribunal.
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9. Appeal stands disposed off in the above terms.
 10. All pending applications, if any, also stand disposed off.

[SHIVKUMAR DIGE, J.]