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

FIRST APPEAL NO. 1574 OF 2025

Bajaj Allianz General Insurance Company]
Ltd., D3-D4, 2nd Floor,]
Royal Prestige, Sykes Extension]
Shahupuri, Kolhapur- 416008]
Insurer of Hero Honda Motorcycle]
No. MH-09-BF-9921]
(Policy No. OG-15-2005-1802-00005128)]
Period 24/11/2014 to 23/11/2015.]

.... **Appellant (Original Respondent No.3)**

Versus

1. Manisha Ramesh Manade]
   Age: 49 years, Occu: Household]
   R/at. Manade Mala, Uchagaon]
   Tal:- Karveer, District: Kolhapur]
2. Rasika Ramesh Manade]
   Age: 21 years, Occu: Education]
   R/at. Manade Mala, Uchagaon]
   Tal: Karveer, District: Kolhapur]
3. Tejas Ramesh Manade]
   Age: 19 Years, Occu: Education]
4. Shripati Tukaram manade]
   (Deleted)]
5. Sundar Shripati Manade]
   Age: 58 years, Occu: Household]
   R/at. Manade Mala, Uchagaon]
   Tal: Karveer, District: Kolhapur.]
6. Dinkar Dattatray Manade]

Age: 41 years, Occu: Agriculture]
Residing at Manade Mala, Uchagaon]
Tal: Karveer, District:- Kolhapur]
(Driver of Hero Honda Motorcycle No.MH-09-BF-9921)]

7. Baburao Jivaba Manade]
Age: Major, Occu: Agriculture]
Residing at House No.134]
Manade Mala, Uchagaon]
Tal: Karveer, District: Kolhapur,]
(Owner of Hero Honda Motorcycle No.MH-09-BF-9921)]

.... **Respondents (Respondent Nos.1 to 5 are original claimants and Respondent Nos.6 & 7 are Original Respondent Nos.1 and 2)**

Mr. Sarthak Diwan a/w Mr. Aditya Ghadge, Advocate for the Appellant – Insurance Company.
Mr. Bhushan Walimbe a/w Mr. Vaibhav V. Avage, Advocate for Respondent Nos.1 to 3 and 5.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th NOVEMBER, 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, Kolhapur (for short, “the Tribunal”).

2. It is contention of learned counsel for the Appellant – Insurance Company that the Tribunal has considered monthly income of the deceased on higher side without any evidence on record. The driver of offending vehicle was not holding effective and valid driving licence at the time of accident. The offending motorcycle was falsely involved in the crime as the rider is the cousin brother of the deceased. The Tribunal has deducted 10% negligence of the deceased on the ground of non wearing of helmet, it should be on higher side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondent Nos.1 to 3 & 5 – Claimants that the deceased was a pillion rider, hence no question of wearing a helmet arises. Learned counsel further submitted that in cross-examination, the Claimant No.1 has denied all the suggestions given by the learned counsel for the Appellant – Insurance Company. Moreover, charge-sheet is filed against the rider of offending motorcycle. Learned counsel further submitted that the income of the deceased considered by the Tribunal is proper. 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 impugned judgment and order passed by the Tribunal.

5. It is Claimants' case that on 6th July, 2015 at about 9:45 p.m., the deceased Ramesh was proceeding on his motorcycle as a pillion rider. When the deceased and rider were proceeding on the motorcycle, the rider lost control, causing the motorcycle to slip, and both of them fell abruptly on the road. Consequently, the deceased sustained fatal injuries on head and died on the spot. The offence was registered against the rider of the motorcycle. To prove the negligence of rider of motorcycle, the Claimants have relied on police papers.

6. While dealing with the issue of negligence, the Tribunal has observed that the spot panchanama shows that there was damage to the motorcycle. After due investigation, a charge-sheet was filed against the rider of motorcycle. On that ground, the Tribunal has considered that the accident occurred due to negligence of rider of the motorcycle.

7. It is contention of learned counsel for the Appellant that the Claimant No.1 admitted in her cross-examination that she had wrongly implicated the motorcycle and she did not know number of

the motorcycle of Dinkar.

8. While dealing with the issue, the Tribunal has observed that this admission by itself is not sufficient to cast doubt on the involvement of the motorcycle. The offence occurred on Pune - Banglore highway. The charge-sheet was filed against the rider of the motorcycle after due investigation. I do not find infirmity in it. In my view, merely one admission cannot be considered as false involvement, as charge-sheet was filed against the rider of the motorcycle after due investigation. Moreover, the Appellant – Insurance Company did not examine the investigating officer to prove the false involvement. Hence, I do not find merit in the contention that the offending motorcycle was falsely involved.

9. It is claimants' case that at the time of accident, the deceased was 42 years old. He was an agricultural labourer and earning Rs.6,000/- per month, but the Tribunal has considered Rs.5,000/- as per month his notional monthly income. I do not find infirmity in it. To prove the defence that the rider of offending vehicle was not holding effective and valid driving licence, no evidence is produced on record by the Appellant – Insurance Company. Hence, I do not find merit in it. The deceased was a pillion

rider, hence, no question of him not wearing a helmet arises.

10. 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 Rules.

iv. Record and Proceedings be sent back to the Tribunal.

v. The appeal is dismissed in the aforesaid terms and conditions, and accordingly stands disposed off.

11. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)