IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 48 OF 2021

	TATA AIG General Insurance Company Limited, Penninsula Corporate Park, Nicholas Piramal Park, 9th Floor, G. K. Marg Lower Parel, Mumbai-400 013. Ins. Policy No.015208372601. Valid From : 29.08.2013 to 28.08.2014	… Appellant
	Versus	
1	Smt. Lahanubai Yashwantra Thorat, Age : 66 years, (Mother of the Deceased) Indian Inhabitant and residing at 570, Kasabe Vani Tal: Dindori, Dist. Nashik	... Original Applicant No.1.
2	Shri Manawarali S. Sayed, (Owner of M/Truck No.MH-04-FU-1205) 3, Ajagar Chawl 87, March Church Road, Kalina Dongar, Santacruz : East, Mumbai.	…. Original Opponent No.1 Respondents

WITH
FIRST APPEAL NO. 1171 OF 2025

	TATA AIG General Insurance Company Limited, Penninsula Corporate Park, Nicholas Piramal Park, 9th Floor, G. K. Marg Lower Parel, Mumbai-400 013. Ins. Policy No.015208372601. Valid From : 29.08.2013 to 28.08.2014	… Appellant
	Versus	
1	Smt.Shobha Sahebrao Deshmukh, Age : 48 years, (Widow of the Deceased)	Original Applicant No.1
2	Shri Mohan Sahebrao Deshmukh Age : 23 years, (Son of the Deceased)	Original Applicant No.2

3 Smt. Tarabai Ramchandra Deshmukh
Age : 66 years,
(Mother of the Deceased)
(Deleted since dead)

Indian Inhabitant and residing at
9 Lakhampur, Tal.: Dindori,
Dist. Nashik.

4 Shri Manawarali S. Sayed, …. Original
(Owner of M/Truck No.MH-04-FU-1205) Opponent
3, Ajagar Chawl 87, March Church Road, No.1
Kalina Dongar, Santacruz : East, Mumbai. Respondents

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Mr. Rahul Mehta i/b. KMC Legal Venture, Advocates for the Appellant in First Appeal No.48 of 2021 and First Appeal No.1171 of 2025.
Ms. Varsha Chavan, Advocate for Respondent No.1.

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CORAM : SHIVKUMAR DIGE, J.
DATED : 23rd JULY, 2025.

ORAL JUDGMENT :

1. The appellant/Insurance Company has preferred these appeals against the Judgment and Order passed by the Motor Accident claims Tribunal, Mumbai (for short “the Tribunal”).

2. The issue involved in both the appeals are same, hence I am deciding it by this common judgment.

3. It is contention of learned counsel for the appellant that the income of the deceased in both the appeals are considered on higher side without any evidence on record and on that basis, compensation is awarded which is erroneous and requested to allow the appeal. Learned counsel further submitted that at the time of accident, the driver of offending vehicle was not holding effective and valid driving licence and there was no valid permit to the offending vehicle.

4. It is contention of learned counsel for the respondents that the Tribunal has passed well reasoned order on the basis of evidence produced on record. In both the appeals, the claimants have produced the evidence to prove the income of the deceased. Hence requested to dismiss the appeals.

5. I have heard both the learned counsel. Perused Judgment and Order passed by the Tribunal. **In Appeal No. 48 of 2021-** It is claimant's case that the deceased was agriculturist and he was possessing two hector land in Taluka Dindori of Nashik District out of it 1 hector 60 R of land was under tomato cultivation and 40R of land was under maze cultivation. To prove the income of the deceased, the claimant No.1 has examined herself. She has produced the 7/12 extract in the name of the deceased which is at Exhibit-30. In cross examination, she has stated that after the death of her son, now one Mr. Patil cultivates her land. While dealing with the issue of income of the deceased, the Tribunal has observed that as per the Bank statement, Exhibit-32 and Exhibit-33, it becomes clear that between March 2013 till his death till year 2014, the deceased had substantial turn over of

Rs.7,52,000/-. The Tribunal has further observed that in June-2013, the deceased had purchased tractor for Rs.2,32,000/- and make payment to that effect from his account. It shows that the deceased had some income from agriculture. Considering the evidence on record, the Tribunal has considered yearly income of the deceased at Rs.2,83,334/-. I do not find infirmity in it. In my view, while calculating yearly income of the deceased, the Tribunal has considered the crops taken by the deceased, on that basis, the income is considered. The Tribunal has passed well reasoned order while considering income of the deceased.

In **F.A. No. 1171 of 2025:** It is claimant's case that the deceased was doing farming and he was earning Rs.50,000/- per month. To prove the income of the deceased, the claimant No.1, wife of the deceased has examined herself. She has stated that 1.61 Hector land was standing in the name of the deceased and he was taking cash crops in the said land like grapes, sugarcane and soyabean. Considering evidence on record, the Tribunal has considered yearly income of the deceased at Rs.194,700/-, I do not find infirmity in it. In my view the deceased was taking cash crop from his agricultural land, hence income considered by the Tribunal is proper.

Though the learned counsel for the appellant /Insurance company raised issue that at the time of accident, driver of offending vehicle was not holding effective and valid driving licence and there was no valid permit to the offending vehicle but no evidence is produced on record before the Tribunal to prove the said fact. Hence, I do not see merit in it. Both the appeals are devoid of merit and I pass following order.

ORDER

i. Both the appeals are dismissed.

ii. The claimants in both appeals are permitted to withdraw the deposited amount along with accrued interest thereon.

iii. The statutory amount in both the appeals be transferred to the Tribunal. The parties are at liberty to withdraw it as per the Rules.

iv. R & P in both the appeal be sent back to the Tribunal.

v. All pending applications, if any also disposed of.

SONALI SATISH KILAJE Digitally signed by SONALI SATISH KILAJE Date: 2025.08.12 11:29:48 +0700

(SHIVKUMAR DIGE, J.)