IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1005 OF 2025

The United India Insurance Company Limited Deepak Hotel Building, Opp. New S.T. Stand, Chiplun, Taluka-Chiplun. District-Ratnagiri.	}	**...Appellant**
Versus		
1. Mrs.Shamika Sachin Gujar Age-30 years, Occ: Nil R/o. Vanand, Taluka-Dapoli, District-Ratnagiri.	}	
2. Miss.Swara Sachin Gujar Age-7 years, Occ: Education R/o. Vanand, Taluka-Dapoli, District-Ratnagiri.	}	
3. Mr.Shourya Sachin Gujar Age-3 years, Occ: Education R/o. Vanand, Taluka-Dapoli, District-Ratnagiri. Applicant Nos.2 and 3 being minors through Their Next Friend, Their mother Applicant No.1.	}	
4. The Registrar Dr.Balasaheb Sawant Konkan Krishi Vidyapeeth At and Post & Taluka-Dapoli, District-Ratnagiri-415712.	}	**....Respondents**

Mr.Nikhil Mehta i/b KMC Legal Venture, for the Appellant.
Mr.Shreyash S. Butala, for Respondent Nos.1 to 3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th AUGUST 2025

ORAL JUDGMENT :

. This Appeal is preferred against the judgments and orders passed by the Motor Accident Claims Tribunal, Khed, District Ratnagiri (for short "the Tribunal").

2. It is contention of learned counsel for the appellant-Insurance Company that common ground raised in all these appeals is, FIR was lodged after five months of the accident. There is delay in filing the FIR but this fact is not considered by the Tribunal. Learned counsel further submitted that the offending bus was not having valid permit at the time of accident, there was breach of terms and conditions of the insurance policy but the Tribunal has not considered this fact. Learned counsel further submitted that in First Appeal No.962 of 2025, the deceased was not a third party as the deceased was employed by the owner of the offending bus. He further submitted that the

receipt of premium under IMT 37 was a condition precedent to honour the claim but in absence of such receipt of premium, liability cannot be fixed on the appellant-Insurance Company. Learned counsel further submitted that in some appeals, the claimants have got job in the place of deceased on compassionate ground, hence, their salary amount must be deducted in proportion to the income of the deceased. Learned counsel further submitted that the claimants in appeal has received sum of Rs.10,00,000/- under an insurance scheme, this amount is required to be deducted from the compensation amount. Hence, requested to allow all appeals.

3. It is contention of learned counsel for respondents/claimants that due to accident, all the occupants in the bus died on the spot except one passenger who was sitting beside the driver. After the accident, due to serious injuries, the said passenger was admitted in hospital and after discharge from the hospital, he filed FIR against the driver of the offending bus. Learned counsel further submitted that though the appellant-Insurance Company have raised various grounds in the appeal

but no evidence is produced on record in support of the defenses taken by the Insurance Company. Learned counsel further submitted that the claimants have received compensation under insurance scheme but it was not for accidental injuries and it was from their personal insurance policy. Hence, the amount received in those personal insurance polices cannot be deducted from compensation which they are liable to receive under the accident claim. Learned counsel further submitted that the Tribunal has passed well reasoned order, no interference is required in it and requested to dismiss the appeals.

4. I have heard both learned counsel, perused the judgments and orders passed by the Tribunal.

5. It is contention of learned counsel for appellant-Insurance Company that there is delay of five months in lodging the FIR. It appears from the record that the appellant-Insurance Company has not disputed about the accident. At the time of the accident, the offending bus was insured with the appellant-Insurance Company.

6. It is claimants' case that on 28th July 2018, the first informant along with deceased was going to Mahableshwar by bus bearing registration No.MH-08-E-9087. Other employees of the respondent – Krishi Vidyapeeth were also occupants of the said bus. The bus was proceeding by Ambenali Valley, at that time, the driver of the bus lost control over the bus and the bus went into the deep valley. All the occupants of the bus died in the said accident on the spot except one passenger-Prakash Sawantdesai, who was sitting beside the driver and after the accident, due to serious injuries, he was admitted in hospital and after discharge from the hospital, he filed FIR against the driver of the offending bus. Hence, I do not find merit in the contention of learned counsel for the appellant-Insurance Company about the delay in filing the FIR as there was no intentional delay in filing the FIR.

7. Learned counsel for the appellant-Insurance Company has raised a ground of not having valid permit of the bus, and that the receipt of the premium under IMT 37 was the condition precedent but no evidence is produced on record to

prove these defenses. Hence, I do not find merit in it. It is settled principle of law that if any plea is taken by any party, it has to be proved by cogent evidence. The appellant had not produced any evidence before the Tribunal that at the time of the accident, the bus was not having valid permit and the premium under IMT 37 was condition precedent.

8. It is contention of learned counsel for the appellant-Insurance Company that some of claimants have received compensation under insurance scheme. In my view, the claimants have received compensation under personal insurance policies of the deceased. The compensation received under personal insurance policies cannot be deducted from the accident claim compensation. Though the deceased were employees of respondent-Krishi Vidyapeeth but at the time of the accident, the bus was insured with the appellant-Insurance Company and the insurance of the occupants of the bus was covered under the insurance policy. Hence, the appellant-Insurance Company is liable to pay compensation.

9. It is contention of learned counsel for appellant-Insurance Company that some of the claimants have received employment on compassionate ground, hence, the salary received on compassionate service be deducted from the compensation received by the claimants. In my view, getting employment on compassionate ground cannot be a ground to deduct their salary from the compensation which they are entitled under accident claim as they are doing service, hence, they are getting salary. The Tribunal has passed well reasoned order, no interference is required in it.

10. In view of above, I pass the following order :

ORDER

(i) All the first appeals are dismissed. No order as to cost.

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

(iii) The statutory amount in all the appeals be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

(iv) Record and proceedings be sent to the Tribunal.

(v) Learned counsel for the respondents/claimants tendered chart of apportionment of compensation amount in each appeal. He is directed to produce the chart along with application before the concerned Tribunal. The learned Tribunal shall decide the said application on its own merit.

11. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)