

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1904 OF 2024

The United India Insurance Company Limited
Deepak Hotel Building, Opp. New S.T.Stand,
Chiplun, Tal. Chiplun, Dist : Ratnagiri

... Appellant

Versus

1 Shrawani Sandeep Zagade
Age about 32 yrs., Occu. Nil
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri

2 Swanandi Sandeep Zagade
Age about 3 yrs., Occu - Education
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri

3 Soham Sandeep Zagade
Age about 11yrs., Occu. Education
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri

Applicant No.2 and 3 being minors through their
Next friend, their mother Applicant No.1.

4 Pramila Maruti Zangade
Age about 60 yrs., Occu. Nil
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri

5 The Registrar
Dr. Balasaheb Sawant Konkan Krishi Vidyapeeth
At Post & Tal. Dapoli, Dist. Ratnagiri – 415 712

... Respondents

**WITH
FIRST APPEAL NO. 461 OF 2025**

The United India Insurance Company Limited
Deepak Hotel Building, Opp. New S.T.Stand,
Chiplun, Tal. Chiplun, Dist : Ratnagiri

... Appellant

Versus

- 1 Smita Santosh Zagade
Age about 39 yrs., Occu. Nil
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri
- 2 Krutika Santosh Zagade
Age about 11 yrs., Occu - Education
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri
- 3 Anushka Santosh Zagade
Age about 8 years., Occu. Education
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri
- 4 Jayshri Maruti Zagade
Age about 68 yrs., Occu. Nil
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri
- 5 The Registrar
Dr. Balasaheb Sawant Konkan Krishi Vidyapeeth
At Post & Tal. Dapoli, Dist. Ratnagiri – 415 712

... Respondents

**WITH
FIRST APPEAL NO. 1559 OF 2025**

The United India Insurance Company Limited
Deepak Hotel Building, Opp. New S.T.Stand,
Chiplun, Tal. Chiplun, Dist : Ratnagiri

... Appellant

Versus

- 1 Srushti Sachin Zagade
Age about 29 yrs., Occu. Nil
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri
 - 2 Aaradhya Sachin Zagade
Age about 5 yrs., Occu - Education
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri
- Applicant No.1 being minor through her next friend
her mother Applicant No.1
- 3 Sunanda Chandrakant Zagade
Age about 62 yrs., Occu. Education
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri
- Applicant No.2 and 3 being minors through their
Next friend, their mother Applicant No.1.

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| <p>4 The Registrar
Dr. Balasaheb Sawant Konkan Krishi Vidyapeeth
At Post & Tal. Dapoli, Dist. Ratnagiri – 415 712</p> | <p>... Respondents</p> |
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**WITH
FIRST APPEAL NO. 1560 OF 2025**

The United India Insurance Company Limited
Deepak Hotel Building, Opp. New S.T.Stand,
Chiplun, Tal. Chiplun, Dist : Ratnagiri

... Appellant

Versus

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| <p>1 Shrawani Sandeep Zagade
Age about 32 yrs., Occu. Nil
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri</p> <p>2 Purva Sanjeev Zagade
Age about 10 yrs., Occu - Education
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri</p> <p>3 Shrushtri Sanjeev Zagade
Age about 5 yrs., Occu. Education
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri</p> | |
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Applicant No.2 and 3 being minors through their
Next friend, their mother Applicant No.1.

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| <p>4 Vasanti Vasant Zagade
Age about 70 yrs., Occu. Nil
R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri</p> <p>5 The Registrar
Dr. Balasaheb Sawant Konkan Krishi Vidyapeeth
At Post & Tal. Dapoli, Dist. Ratnagiri – 415 712</p> | <p>... Respondents</p> |
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**WITH
FIRST APPEAL NO. 1908 OF 2024**

The United India Insurance Company Limited
Deepak Hotel Building, Opp. New S.T.Stand,
Chiplun, Tal. Chiplun, Dist : Ratnagiri

... Appellant

Versus

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| <p>1 Pramila Rajesh Sawant</p> | |
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	Age about 34 yrs., Occu. Nil R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri	
2	Sarita Sakharam Sawant Age about 59 yrs., Occu - Nil R/o. Gimhavane, Tal. Dapoli, Dist. Ratnagiri	
3	The Registrar Dr. Balasaheb Sawant Konkan Krishi Vidyapeeth At Post & Tal. Dapoli, Dist. Ratnagiri – 415 712	... Respondents

.....
 Mr. Rahul Mehta i/b. KMC Legal Venture, Advocate for the Appellant.
 Mr. Shreyash Sudhir Butala, Advocate for Respondents/claimants.

CORAM : SHIVKUMAR DIGE, J.
DATED : 4th AUGUST, 2025.

ORAL JUDGMENT :

1. All these appeals are preferred against the judgments and orders passed by the Motor Accident Claims Tribunal, Khed, District Ratnagiri (for short “the Tribunal”).
2. Both the learned counsel submitted that all these appeals be decided at the admission stage as issues involved in all these appeals are common.
3. Considering the submissions of both the learned counsel, I am deciding these appeals at admission stage by this common judgment.
4. 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. 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 all appeals have 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.

5. 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 appeals 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 policies 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.

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

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.
- vi. Pending applications, if any, stand disposed of.

SONALI
SATISH
KILAJE

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by SONALI
SATISH KILAJE
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(SHIVKUMAR DIGE, J.)