



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO.578/2011

Shri Lawalji s/o Ramji Tiwari  
aged about 53 years,  
Occu. Business,  
R/o Ganesh Nagar, Kanhan,  
District – Nagpur.

.... **APPELLANT**  
(Original Respdt.no.2 on R.A.)

**VERSUS**

1. Shri Fagorao S/o Pandurangi Barapatre, **RESPONDENTS**  
aged about 49 years; (Original Petitioners  
on R.A.)
2. Smt. Kusum w/o Fagorao Barapatre,  
aged about 41 years.
3. Ku. Anuradha d/o Fagorao Barapatre,  
aged 15 years, minor  
through Petitioner-Respondent no. 1  
Fagorao Hanuman Nagar,  
Kanhan, Distt. Nagpur.
4. National Insurance Company Ltd. (Ori.Respdt. No.1 on R.A.)  
Kamptee, Nagpur.
- 5.Shri Vijay s/o Budhe Manhere, (Ori.Respdt. No.3 on R.A.)  
aged 38 years, r/o Kamptee Kalari,  
Nagpur.

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Mr.R.B.Upadhyay, Advocate for the appellant.  
Mr.Y.J. Soni, Advocate for respondent nos.1 to 3.  
Mr. A.M.Kukday, Advocate for respondent no.4.

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CORAM : PRAVIN S. PATIL, J.  
DATED : 10.12.2025.

**ORAL JUDGMENT:**

1. By way of present appeal, the challenge is to the judgment and order dated 22.12.2006 passed by Motor Accident Clams Tribunal, Nagpur in MACP No.984/2000.

2. In the present appeal, the contention of the appellant- the owner of the vehicle is that the learned Tribunal has committed a manifest error in considering the factual aspects involved in the matter. According to the appellant, he is the owner of a jeep, which was duly insured. However, the learned Tribunal has considered him as a owner of two-wheeler and thereby held him responsible to pay the compensation.

3. On 27.06.2000 at about 5.30 p.m., one Harish was riding a scooter bearing Registration No.MH-31/F-1383 and the deceased Ishan Barapatre was the pillion rider. It is the case of the claimants that the offending vehicle, a jeep bearing Registration No. MH-31/F-1383, coming from opposite direction, dashed against the scooter, as a result of which the deceased Harish fell down, sustained fatal injuries and expired on the same day. On 18.10.2000, respondent nos.1 to 3 filed a Claim Petition before the Claims Tribunal seeking compensation of Rs.2,00,000/- on account of accidental death of Ishant Barapatre.

4. It is undisputed fact that the jeep involved in the accident was duly insured with respondent no.4 - Insurance Company and on the date of the accident, the insurance policy was valid. The policy covered the period from 1.5.2000 to 31.5.2001.

5. It is pertinent to note that the claimants in their petition did not implead the owner of the scooter and the Insurance Company as parties to the claim petition. The jeep owner, its insurance company and driver of the jeep were only impleaded as a necessary parties to the claim petition.

6. In view of the above factual position, the learned Tribunal held that the offending vehicle i.e. the jeep, was involved in the accident and it's having valid policy on the day of accident, therefore, the Insurance Company is liable to pay compensation. However, in para 15, it is observed under the impression that Appellant is owner of motor bike and recorded that, "on perusal of the Insurance policy, it reveals that the respondent no.2 (i.e. present appellant) had not paid the premium so far as the pillion rider is concerned and accordingly held owner and driver of jeep are held responsible to pay compensation". As such prima facie, finding recorded by Claim Tribunal are perverse in nature.

7. As per the actual facts of the case, it is clear that the offending vehicle i.e., jeep was duly insured for the period from 1.5.2000 to 31.5.2001 with respondent no.4 Insurance Company. The deceased was a pillion rider of the scooter. The present appellant is the owner of the jeep. No issue was raised nor in dispute that respondent no.2 (present appellant) had not paid the premium of the Jeep. Moreover, the claimants, the owner as well as Insurance Company of the scooter were not impleaded as necessary party to the claim petition. In these circumstances, the finding recorded by the learned Tribunal is *prima facie* incorrect in the facts and circumstances of the matter to hold responsible

the owner and driver of the jeep to pay the compensation. Hence, the impugned judgment requires clarification. Accordingly, I proceed to pass the following order:

### **ORDER**

- (i) The appeal is partly allowed.
- (ii) Respondent nos.2, 3 and 4 are held jointly and severally liable to pay compensation of Rs.1,00,000/- together with the proportionate costs and future interest @ 7.5% per annum from the date of filing of the petition till realisation of the entire amount to respondent nos.1 to 3.
- (iii) Respondent no.4 - Insurance Company is directed to deposit the amount with the Registry of this Court within a period of six weeks from today.
- (iv) Respondent nos.1 to 3 are permitted to withdraw the said amount subject to satisfaction of Registrar (J).
- (v) The present appellant is permitted to withdraw the amount of Rs.25,000/- along with interest accrued thereon, as deposited in Claim Petition No.984/2000 before the Claims Tribunal, Nagpur.

The appeal is disposed of in the aforesaid terms.

(PRAVIN S. PATIL, J.)