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

FIRST APPEAL NO.455 OF 2010

United India Insurance Company Limited,
Amravati Divisional Office, through
The Regional Manager, Nagpur Regional
Office, Shankar Nagar Square, Nagpur. .. Appellant

..Versus..

1. Shankar Mahadeorao Dhurve,
   Aged about 35 years,
   Occupation-Labour.
   R/o. Amla (Vishweshwar),
   Tq. Chandur Rly,
   District-Amravati. (Org. Petitioner)

2. Panjabrao Punjaram Shivankar,
   Aged about 30 years,
   Occupation-Driver,
   R/o. Jalka, Tq. Chandur Rly.,
   District-Amravati. (Org. Respondent No.1)

3. Sudhir Govindrao Tikhe,
   Age-Major, Occu. Agriculture,
   R/o. Dabha (Pahur), (Org. Respondent No.2)
   Tq.Babhulgaon, Dist. Yavatmal. .. Respondents

…………….

Shri B. Lahiri, Advocate with Shri D.B. Chatterjee, Advocate for Appellant.
Shri C.A. Babrekar, Advocate for Respondent No.1.

……………

CORAM : PRAVIN S. PATIL, J.
DATED : 15.10.2025.

JUDGMENT

1. By this appeal, the appellant challenged the judgment and award passed by the Motor Accident Claims Tribunal, Amravati in Claim Petition No.132/2002. The learned Tribunal by the impugned judgment has awarded Rs.40,000/- at the rate of interest of 7.5 % to the claimant.

2. The appellant herein is the insurance company who has challenged the judgment of the Tribunal mainly on the ground that there is a violation of the policy of the offending vehicle and, therefore, according to the appellant-insurance company is not responsible for the payment of compensation in the matter.

3. The brief facts of the matter are required to be dealt with are as under :

The respondent no.1 herein has sustained injuries in an accident occurred on 26.1.2002 while he was travelling by the tractor and trolley owned by the respondent no.3 and driven by the respondent no.2. Admittedly, the tractor and trolley which was involved in the accident was duly insured with the appellant-insurance company. The respondent no.1 admittedly was doing the labour work and, therefore, he has made a claim of compensation of Rs.1,50,000/- along with interest before the Claims Tribunal. According to respondent no.1, he was working on a daily wage basis in agricultural field and, therefore, his income was Rs.3,000/- per month.

4. In support of the claim, the respondent no.1 has examined himself and deposed before the Claims Tribunal that he was earning Rs.100/- per day. He further pointed out that the vehicle involved in the accident was carrying the bamboos in the vehicle. According to him, the driver of the vehicle loss the control over the vehicle and same was turn turtle and hence he caused a grievous injury, including a compound fracture, to his shoulder. The respondent no.1, to demonstrate the fact that he caused injuries, has placed reliance on the medical certificate issued by Medical Officer in Form 'B'. The same was duly exhibited before the trial court as Exh.35.

5. Per contra, the insurance-company examined the Administrative Officer before the Claims Tribunal. According to

the said witness, the policy issued for the offending vehicle was only for agricultural purpose of owner. According to the appellant, except owner, no one was entitled to use the tractor and trolley for his use.

6. The learned Tribunal, on the basis of above, decided the petition and by considering the fact that in other case i.e. Claim Petition No.89/2003 one Sudhir Kene's income was held to be Rs.2100/- per month, the same made applicable to the respondent and accordingly, by calculating the monthly income of the respondent no.1 at the rate of Rs.2100/- per month, awarded the amount of Rs.40,000/- to the respondent no.1.

7. In the background of above said factual position, the appellant-insurance company approached before this court by raising the ground that the compensation awarded to the respondent no.1 is illegal, as learned Tribunal failed to consider the terms of policy which were raised and proved by them before the Tribunal.

8. After going through the record, it is crystal clear that the policy which was relied upon by the appellant-insurance

company was for the agricultural purpose of the owner of the tractor and trolley. Undisputedly, the tractor and trolley was required to be used for carrying the agricultural products. Here, the only submission made by the appellant is that the tractor and trolley was coming from other field and, therefore, it was not used by the owner for carrying his agricultural products and same amount to breach of the policy. But the record no where demonstrates this fact. On the contrary, during the cross-examination of the Administrative Officer of the appellant-insurance company, he candidly admitted the fact that the tractor and trolley owned by the respondent no.3 can be used any where. Therefore, unless and until it is brought on record that the agricultural products which the tractor and trolley was carrying was of other person or same was brought from other field or any evidence of such nature, then only submission of the appellant could have been considered in the matter, but the entire record do not support this submission of the appellant. Therefore, I am not agree with the submission made by the appellant in the matter.

9. It is well settled position of law that the person who caused injuries in the accident should get just and fair compensation in the matter. From the record, it is clear that the appellant has deposed before the Tribunal that he was doing the daily wage work and getting Rs.100/- per day. The respondent no.1 was cross-examined before the Tribunal but nothing was elicited from him contrary to the statement made by him.

10. Therefore, I am of the opinion that considering his monthly income of respondent no.1 at Rs.3,000/- per month, is entitled for the compensation as under :

	Rs.3,000/-	Per month salary
(+)	Rs. 900/-	30% addition towards future prospects.
	Rs. 3,900/-	Total
(-)	Rs. 1,200/-	One third deduction towards personal expenses of deceased.
	Rs.2,700/-	Total per month salary.
(X)	12	Months
	Rs.32,400/-	Total yearly income
(X)	16	Multiplier applied as deceased was 35 years of age.
	Rs.5,18,400/-	Total
	Rs. 15,000/-	Medical Expenses
	Rs. 5,33,400/-	Total
	Rs.80,010/-	15% Disability compensation with interest from the year 2002

11. Hence, for the aforesaid reasons, the appeal is partly allowed.

12. The impugned order passed by the learned Motor Accident Claims Tribunal, Amravati dated 9.1.2009 is hereby modified to the extent that the present appellant-insurance company and respondent nos.2 and 3 are jointly and severally pay the compensation of Rs.80,500/- to the respondent no.1 along with interest from the date of filing of the application at the rate of 7.5% within a period of three months.

13. The respondent no.1 would be entitled to withdraw the said amount after depositing the same by the appellant-insurance company before this court.

14. There shall be no order as to costs.

(Pravin S. Patil, J.)

Gulande