



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

FIRST APPEAL NO.231 OF 2023

1. Raju s/o Madhukar Totalwar,
Aged about 61 years, Occ: Agriculturist,
R/o Central Ward, Hinganghat,
Tah. Hinganghat, Dist. Wardha.

(Ori.Opp.No.2 on RA)

2. Rakesh s/o Vitthalrao Bhade
Aged about 35 years, Occ: Driver,
R/o Sant Tukdoji Ward,
Hinganghat, Tah. Hinganghat,
Dist. Wardha.

(Ori.Opp.No.1 on RA)

...APPELLANTS

...V E R S U S...

1. United India General Insurance
Company Ltd. Through its Manager,
R/o Gungul Tower IInd Floor,
Shivaji Chowk, Main Road, Wardha,
Tah. & Dist. Wardha.

(Ori.Opp.No.3 on RA)

2. Smt. Malati Wd/o Shivcharan Sahu,
Being dead through Legal representatives
Shri Badal s/o Shivcharan Sahu,
Aged about 25 years, Occ: Labour
R/o Malgujaripura, Wardha,
Tah. and Dist. Wardha.

Ori. Applicant

3. Parag s/o Baba Tandalwar (deleted)

...RESPONDENTS

Shri Anup S. Dhore a/wShri Yash Bangale, Advocate for appellants.
Shri A.C. Chaphale, Advocate for respondent no.1.

CORAM:- M.W. CHANDWANI, J.

DATED :- 14.10.2025

ORAL JUDGMENT:

1. Heard. **Admit.**

2. The appeal challenges the order passed by the learned Member, Motor Accident Claims Tribunal, Wardha (for short, “**Tribunal**”) in M.A.C.P. NO.14/2016 whereby, the Tribunal allowed claim petition of respondent no.2 and granted compensation to her on account of death of Akash Shivcharan Sahu in a vehicular accident that occurred on 18.04.2011.

3. The Tribunal held that there is a breach of fundamental condition of the policy since the appellant did not produce fitness certificate of the offending vehicle and driving licence of appellant no.2, who was driving the vehicle at the relevant time and directed respondent no.1 – Insurance Company to pay and recover the amount of compensation from the appellants. Therefore, this appeal came to be filed.

4. Though, there are various grounds raised in the appeal, the main contention of the appellants is that the documents such as fitness certificate of the offending vehicle bearing registration No.MH31CQ3375 as well as the valid driving licence which the driver was holding at the time of accident could not be produced on record. The counsel for the appellant who was appearing before the Tribunal was under the impression that the matter is covered under the policy and therefore, he did not examine the appellants and did not file documents on record. The submission is that, the

appellant should be given an opportunity before the Tribunal to prove those documents. According to the learned counsel for the appellants, merely because of the negligence on the part of the counsel, the appellants should not be denied an opportunity to produce those documents on record.

5. Heard the learned counsel for the appellants as well as learned counsel for respondent no.1. I have gone through the record.

6. It is a settled principle of law that the party should not suffer as result of negligence on the part of the counsel. Therefore, in my view, a chance should be given to the appellants to prove those documents before the Tribunal subject to payment of costs of ₹10,000/- to the District Bar Association, Gondia, within two weeks.

7. In view of the above, the appeal is partly allowed.

8. The impugned order to the extent of directing respondent no.1 to recover the amount is set aside and matter is remanded back to the Tribunal to decide it afresh to the extent of breach of policy and liability of the appellants to pay the compensation amount to respondent no.1.

9. The Tribunal shall give an opportunity to both the parties to file relevant documents and adduce evidence only to the extent of the issue referred above.

With this, the appeal stands disposed of.

JUDGE

Wagh