

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 1679 OF 2025

M/s. The Oriental Ins. Co., Ltd.

... Appellant.

Versus

1. Smt. Puja Satish Chougule.
2. Kumar Harshad Satish Chougule.
3. Kumari Aditi Satish Chougule.
4. Shri. Bhupal Devappa Chougule.
5. Sou Suman Bhupal Chougule.
6. Shri. Rameshkumar Jetharam Mali.
7. Shri. Revansing Malsing Rajput.

... Respondents.

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Mr. D. S. Joshi (thr. VC), Advocate for the Appellant.
Mr. Viraj Nalavade, Ms. Sharvari Tipugade, Mr. Girish Mujumdar
i/b Jayant Bardeskar for the Respondent Nos. 1 to 3.

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**CORAM : SHREE CHANDRASHEKHAR, CJ &
MADHAV J. JAMDAR, J.**

DATE : 23rd APRIL, 2026.

P. C. :

. Aggrieved by the decision in Motor Accident Claim Petition No.63 of 2018, the Oriental Insurance Company Limited has filed this appeal under section 173 of the Motor Vehicles Act, 1988.

2. After going through the judgment rendered on 30th April 2024, we have formed an opinion that there is no substance in this First Appeal. We are, therefore, not inclined to call for the lower Court records. The submission made by Mr. D. S. Joshi, learned Counsel appearing for the appellant that appeal under section 173 of the Motor Vehicles Act, 1988 being a substantive appeal akin to appeal

under section 96 of the Code of Civil Procedure, 1908 requires calling for the lower Court records, is rejected. This is not the law of the land that every appeal based on howsoever baseless and frivolous grounds must be admitted and lower Court's record be called for perusal of the Court.

3. The victim-Satish Bhupal Chougule met with an accident on 3rd January 2018 and passed away on 9th January 2018 on account of injuries suffered by him in the accident. The respondent no.7 was driving a motorcycle at high speed in rash and negligent manner and caused the accident. Subsequently, First Information Report vide Crime No.7 of 2018 was registered at Ratnagiri City Police Station. It is stated that at the relevant time Satish Bhupal Chougule was serving as a manager in Shamrao Vitthal Bank at Ratnagiri and receiving a salary of Rs.1,20,000/-. He was permanent employee and had future prospectus of earning more income and getting promotional post. He was the only earning member of family which comprised of his wife-Pooja Satish Chougule, son-Harshad Satish Chougule, daughter-Aditi Satish Chougule, father-Bhupal Devappa Chougule and mother-Suman Bhupal Chougule.

4. The owner of the vehicle who was opponent no.1 before the Tribunal moved an application for transposing applicant nos.4 and 5 as opponent nos.4 and 5. The said application was allowed. The opponent nos.4 and 5 did not file written statement. The appellant-Insurance Company filed a written statement and denied that Satish Bhupal Chougule died in accident due to rash and negligent driving on the part of driver. The appellant-Insurance Company raised a further ground that the driver of the vehicle had no valid

driving license and there was breach of the terms and conditions of insurance policy.

5. On the basis of pleadings of the parties, Tribunal formulated following 3 issues :

- “[1] Whether the Applicants prove that deceased Satish Bhupal Chougule died due to accidental injuries in a vehicular accident occurred at Maruti Mandir to ST stand road, Malnaka near Gandhi petrol pump, Ratnagiri, on 3-1-2018, as alleged ?*
- [2] Whether the Applicants proved that said accident took place due to rash and negligent driving by the rider of Aactiva scooter motorcycle bearing No. MH-08-AD-4692, as alleged ?*
- [3] Whether the Applicants are entitled to compensation as prayed ? If yes, to what amount and from whom ?”*

6. Issue nos.1 and 2 were taken up together and the Tribunal rendered a finding that the applicants had proved that the victim-Satish Bhupal Chougule died an accidental death on account of injuries caused in vehicular accident. The Tribunal further held that the accident took place due to rash and negligent driving by driver of Aactiva bearing No. MH-08-AD-4692.

7. In support of the case set up against the appellant and other parties, the wife of victim examined herself and deposed in the Court that her husband was taken to WINS hospital where he died on 9th January 2018 due to accidental injuries. A copy of Crime No.7 of 2018 lodged by Surendra Singh, the pillion rider was produced in evidence. In the said complaint, it was stated that the driver hit the pedestrian near petrol pump which caused grievous injuries to him. The spot panchnama, inquest memo, inquest letter, post-mortem report, death certificate, etc. were also laid in evidence. The medical report recorded the cause of death as “lobar pneumonia

in clinically treated case of head injury”. The Tribunal held that victim had completed the age of 44 years and the compensation to the victim was to be calculated as per the multiplier of 14. The Tribunal further took note of salary certificate, Form 16B, etc. which discloses gross salary of the victim as Rs.66,638/- per month. The Tribunal further recorded that except denying that the victim was earning salary of Rs.66,638/- per month as a manager of the bank, no serious challenge was raised to the evidence produced in support of the claim made by dependents of the victim.

8. Mr. Joshi, learned Counsel appearing for the Insurance-Company submits that the whole salary as the victim cannot be considered as his income, rather it shall be Rs.26,270/- per month and not more than that. He submits that it was the duty of the owner of vehicle to produce the driving license when a plea was set up on behalf of the Insurance-Company that the driver of the vehicle had no valid driving license. In support of this plea, Mr. Joshi, learned Counsel appearing for the appellant-insurance company refers to the decision of the Supreme Court in the case of *Pappu v. Vinod Kumar Lamba*¹. However, this judgment was considered in a different fact-situation wherein the driver of the vehicle had raised a vague defence that the driver had a valid driving license.

9. Section 101 of the Indian Evidence Act, 1872 captioned as “burden of proof” provides that a party who asserts the existence of any facts and desires the Court to give judgment as to any legal right or liability dependent on the existence of those facts, must prove that those facts exist. It further provides that when a person

¹ 2018(3) SCC 208.

is bound to prove the existence of any fact, it is said that the burden of proof lies on that person. The appellant-Insurance Company did not plead that the driver of the vehicle had no valid driving license is, therefore, required in law to prove this fact. However, Mr. Joshi, learned counsel appearing for the Insurance-Company submits that the Insurance-Company cannot have possession of the driving license of the driver and it was for the owner of the vehicle to produce the driving license before the Tribunal. If that is so, the stand taken by the Insurance-Company must be held to be a speculative plea. Without having possession of the driving license, the Insurance-Company cannot say that the driver of the vehicle had no valid driving license.

10. The learned counsel appearing for the appellant-insurance company then endeavoured to challenge the quantum of compensation on the ground that the income received by the victim from house rent allowance could not have been included while computing the future income because, the victim was staying separately.

11. The proceedings under Section 166 of the Motor Vehicles Act are summary in nature. The Tribunal while adjudicating the claim arising out of the motor accident is required to take a holistic view of the matter and render a common-sensical judgment. It is not the intention of Legislature that in an appeal under section 173 of the Motor Vehicles Act, the High Court should go into every little details of the case. Minor mistakes committed by the Tribunal even on a question of law is not open to challenge in the proceedings before High Court in such an appeal. The object behind providing compensation to the victim of motor accident or the dependents of

victim is beneficial in nature. Therefore, the benefits accruing to the victim of motor accident or the dependents of victim cannot be throttled on the technical issue and re-appreciating the judgment rendered by the Tribunal in such a manner that frustrates the primary object behind the legislation is not permissible.

12. The judgment rendered in Motor Accidents Claim Petition No.63 of 2018 is a well-reasoned order and benefits thereunder are sought to be denied on raising such grounds which are really not tenable.

13. For the aforementioned reasons, First Appeal No. 1619 of 2025 is dismissed. The respondent nos.1 to 5 are entitled to the compensation amount as per the judgment dated 30th April 2024. The respondent nos.1 to 5 or any one of them duly authorised on behalf of others is permitted to withdraw the amount deposited by the appellant-Insurance Company with the Registry of this Court.

[MADHAV J. JAMDAR, J.]

[CHIEF JUSTICE]