IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

First Appeal No. 1441 of 2003

Nanda Sarjerao Ippar … Appellants

V/s.

Ganpat Bhika Nagare
(deceased) through LRs
Punjaram Ganpat Nagare and others … Respondents.

Ms. Neha M. Zanje i/b. Mr. Suresh M. Sabrad for the Appellant.

None for the Respondents.

CORAM : S.M. MODAK, J

DATE : 11th August 2026.

ORAL JUDGMENT:

1. Heard learned Advocate for the Appellant – owner of the tractor who was opponent No.4 before the Tribunal at Malegaon-Nashik.

LATA SUNIL PANJWANI Digitally signed by LATA SUNIL PANJWANI Date: 2026.08.13 14:19:58 +0530

2. The claim petition was filed by the legal representatives of the deceased - Ganpat Nagare. Though United India Insurance Company is joined as Opponent Nos.3 and 5 (insurer of jeep and insurer of tractor which is owned by opponent No.4), however, the Insurance Company by their reply has clarified before the Tribunal that there is an insurance policy in existence in respect of the jeep in

question, however, the insurance is not in existence in respect of the tractor on the material date (Para No.5 of the impugned judgment). The Tribunal has fastened the liability on Respondent No.2 – owner of the jeep and Respondent No.3 – insurer of the jeep as joint and several liability to the extent of 75%. The present appellant is liable to reimburse compensation to the extent of 25%. This part of the Award is challenged on behalf of the owner of the tractor.

3. Though, learned Advocate for the Appellant tried to submit that client is not in contact with her, this Court cannot adjourn the matter as the appeal is pending since 2003. Hence, she was asked to argue the matter. She did argued the matter to her level best,however, she could not convince the Court as to how the apportionment of liability is incorrect. She has read the material findings from the Award. However, it could not satisfy the conscious of the Court so as to exonerate the present appellant from the financial liability.

4. The deceased - Bhimabai Nagare was a passenger in a jeep owned by opponent No.1. She was traveling on 30th July 1993 and the accident took place at 10.30 a.m. near Kombda Fata on Nandgaon-Kannad Road. The jeep was proceeding in one direction and the tractor owned by opponent No.4-appellant came from opposite direction. Though the witness who is examined by the claimants was not an eye witness, the necessary documents were filed before the Tribunal. It consists of the FIR, spot panchnama, P.M. report. It is important to note that the driver of the tractor by name

Vijay Sangale has entered into witness box. I have gone through his evidence. He was a witness to the incident. His evidence has got evidentiary value. This Court has to ascertain whether there was no liability of the owner of the tractor due to no fault of the driver or whether the driver of the tractor was also responsible to certain extent. In his evidence Vijay has explained how he was driving the tractor on the material day. According to him the jeep came in a high speed and he was compelled to take the tractor on one side. He has further deposed that the jeep had taken cut to his trolley. It is true that the tractor was accompanied by the trolley. According to him, as a result the jeep gave a dash to a babul tree and two women were thrown out of the jeep. One of them is the deceased - Bhimabai Nagare. He further deposed that he along with the jeep driver was arrested by the police, however, he is not chargesheeted.

5. He was cross-examined by all the concerned parties. It is material to note that there is no dispute raised that the tractor was not involved in the accident. In fact Vijay's testimony is clear that he was very much driving the tractor at the relevant time. On this background when the findings given by the Tribunal in Para No.9 are perused, we can find that Tribunal has arrived at a conclusion of composite negligence. It is bound to be there because the deceased was a passenger in a jeep. It is a fact that jeep driver has not entered into a witness box. While assessing the negligence, the Tribunal has given a finding that jeep driver was at great speed. That is why the Tribunal has fastened 75% liability on the owner of the jeep. Once

the tractor is involved in the accident, the tractor cannot be exonerated. The liability fastened on him is only to the extent of 25%.

6. I do not think that the Tribunal has committed any error in appreciating the evidence. So no fault can be arrived at with this finding. The Tribunal has correctly appreciated the evidence and not held the driver and owner of the tractor to the fullest extent. The liability fastened on him to the extent of 25% is on proper appreciation of evidence. So there is no merit in the appeal and hence, it is dismissed.

7. The Appellant is directed to pay the amount as ordered by the Tribunal.

(S.M. MODAK, J.)