



**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO.6794 of 2025**

**VANITA & ORS.**

**...APPELLANT(S)**

**Versus**

**M/S SHRIRAM INSURANCE COMPANY LTD.  
& ANR.**

**...RESPONDENT(S)**

**J U D G M E N T**

**N.V. ANJARIA, J.**

Heard Mr. Dilip Annasaheb Taur, learned counsel appeared on behalf of the appellant and Ms. Meenakshi Midha, learned counsel appeared on behalf of the respondent-Insurance Company.

2. The present appeal is directed against judgment of the High Court of Judicature at Bombay, Bench at Aurangabad dated 24.09.2019, whereby the High Court allowed the appeal of the respondent-insurance company holding that in the accident in question, the involvement of the offending vehicle-Tata Magic with registration

number MH-13-B-2719 was not proved, therefore, the liability to compensate the claimants could not have been fastened on the insurance company. The appellants-herein are the original claimants.

3. The claimants are the widow and children of deceased named Dhanji Ram Marekar who had approached the Motor Accident Claims Tribunal, Osmanabad (hereinafter referred to as 'the Tribunal') seeking compensation of Rs.10,00,000/- in respect of the accident, which took place on 27.05.2012 at about 6:00 p.m. at Sholapur to Naldurg National Highway, when Dhanaji Ram Marekar was going to village Lohagaon on his motorcycle bearing registration number MH-13-U-9013.

3.1 The case of the claimant was that when the said deceased had reached near village Lohagaon, he was dashed, according to the claimant, by one Tata Magic bearing registration number MH-13-B-2719 which came with excessive speed from the opposite direction. Negligent driving was alleged against the driver of the said Tata Magic.

3.2 The said Dhanji Ram Marekar sustained serious injuries and succumbed to death in the hospital. After applying relevant parameters to assess the compensation, the Tribunal, allowed M.A.C.P No.112 of 2012 of the claimants as per its judgment and award dated 06.01.2017, directed the insurance company to pay compensation of Rs.15,77,000/- with 9% interest.

3.3 The insurance-company approached the High Court calling in question the Tribunal's judgment and award and also questioning the liability to pay the compensation. In the written statement filed by respondent No.2-insurance company, the factum of accident was specifically denied. It was denied that Tata Magic bearing registration number MH-13-B-2719 was involved or that it is owned by respondent No.1 or that the same was insured with the insurer. The date, time and place of the accident were also denied.

3.4 It was the case of the defence that a false offence was registered against the driver in collusion with the police. In view of the specific pleading and the defence of

the insurance-company, one of the issues framed by the High Court was whether the claimants had proved the involvement of Tata Magic bearing registration number MH-13-B-2719 in the accident. The outcome of other issues raised as to whether there was breach of the insurance policy by respondent No.1 or whether the claimants were entitled to get the compensation from the respondents, were to depend upon the finding on the aspect of involvement of the offending vehicle Tata Magic.

4. The claimants sought to contend that the finding of the High Court that the involvement of the Tata Magic was not proved, was a perverse finding. It was submitted that the factum of occurrence of the accident ought to have been accepted on the basis of the say of the witnesses including the witness Deepak Shendge. According to the learned counsel for the appellant, non-examination of the witnesses named Mahesh Deshmukh and Laxman Kamble was not of much importance to conclude about the non-involvement of the offending vehicle. It was submitted that the High Court ought to

have considered the issue about involvement of the vehicle on the footing of preponderance of probabilities.

4.1 On the other hand, learned counsel for the respondents highlighted various circumstances set out by the High Court in its judgment to arrive at a conclusion that involvement of the offending vehicle in the accident was not proved and canvassed the correctness of the impugned judgment of the High Court.

5. This Court considered the submissions asserted on behalf of the respective parties and carefully went through the findings recorded by the High Court in light of the evidence on record in relation to involvement of the vehicle Tata Magic with registration number MH-13-B-2719.

5.1 The High Court has *inter alia* rested on the following facts and circumstances to hold that the appellants-claimants were unable to prove the accident and death of Dhanji Ram Marekar by involvement of Tata Magic jeep.

(i) The accident took place on 27.05.2011. The lodgement of the First Information Report (FIR) was only on 21.06.2011. In other words, there was a gap of 26 days between the date of the accident and lodging of the FIR.

(ii) The FIR was lodged by brother of the deceased named Balaji. His explanation was least inspiring when he stated that since he was in a state of grief and his mental condition was not proper, he could not immediately lodge the FIR.

(iii) Admittedly, the said informant Balaji was not examined by the claimants to elicit his evidence, for the reasons best known to the claimants.

(iv) According to said Balaji, upon knowing about the occurrence of accident, he rushed to the hospital and knew that one Mahesh Deshmukh and one Laxman Kamble from his village had brought the deceased to the hospital.

(v) Nor it is the case that the vehicle number of Tata Magic was provided to the informant Balaji at any specific point of time by either the deceased victim or the persons who brought the victim to the hospital.

(vi) The said Mahesh Deshmukh was also kept out of witness box. Nor Laxman Kamble was examined. The said Mahesh Deshmukh was one of the Panchas to the inquest *Panchnama* but did not inform anything to the police to incorporate the vehicle number of Tata Magic.

(vii) Nothing was recorded about the identity of the Tata Magic in the inquest *Panchnama* which could have been done by the said Mahesh Deshmukh who claimed to be an eye-witness. Nor Mahesh Deshmukh was examined.

(viii) CW2 suggested that Laxman Kamble intercepted the jeep Tata Magic and one Mahesh Deshmukh had come in a bus which was going from Sholapour to Naldurg and that they had taken Dhanji Ram Marekar to the hospital. While they gave the motorcycle number, the Tata Magic registration number was never provided.

(ix) One Deepak Lokhande (CW2) was examined to be projected as eye-witness. In his evidence it was claimed by him that he knew the Tata Magic number, yet he did not provide the same at any point of time.

He conceded that though he witnessed the accident and noted the registration number of the offending vehicle; he never informed the police or even gave a statement under Section 161 of the Code of Criminal Procedure, 1973.

(x) In the inquest *Panchnama* prepared on 28.05.2011, it was stated that the deceased died when hit by the Tata Magic but did not mention the registration number of the Tata Magic.

(xi) Mere indicating the offending vehicle to be 'Tata Magic' was not sufficient. The identity of the offending vehicle with particular registration number was required to be proved.

5.2 Following further aspects deserves to be highlighted which go to show that there was a dearth of evidence to prove the involvement of the offending vehicle as alleged.

(a) The appellant-Vanita (CW1), widow of the deceased was admittedly not with the deceased at the time of the accident, therefore, her evidence has nothing

to contribute to suggest or establish the identity of the offending vehicle.

(b) The accident took place on 27.05.2011 in the evening at about 6:00 p.m. It was summer season, therefore, the evening was sufficiently bright with daylight.

(c) It was possible to sight the identity of the Tata Magic, claimed to have been involved in the accident and its registration number. However, none of the alleged eye-witnesses gave such number in their statements.

(d) The Investigating Officer was not examined by the claimants. The inquest *Panchnama* was prepared only on 28.05.2011.

(e) It is not comprehensible as to why the police waited for some relative to lodge the report of the incident and did not do anything for 25 days. Even eye-witnesses did not approach before 21.06.2011.

5.3 All the above evidence, circumstances and considerations reinforce that the factum of involvement of the offending vehicle as claimed and asserted by the claimants was not proved. The claimants failed to

discharge their obligation on this count which was to be the primary step. Given the above strong evidentiary considerations, even on the principle of the preponderance of probabilities, the involvement of Tata Magic vehicle with registration number MH-13-B-2719 could not be concluded and was not established.

5.4 It was correct on the part of the High Court to conclude that mere mentioning of Tata Magic by name in the inquest *Panchnama* or in the FIR would not be sufficient to hold that it was the same Tata Magic belonging to respondent No.1 and insured with respondent No.2 in absence of its clear identification.

6. It is a settled position of law that in a motor- accident claim petition, the initial burden to prove the factum of accident and involvement of offending vehicle lie on the claimants. It is the claimants who have to discharge this primary burden by establishing the occurrence of the accident and the involvement as well as identity of the vehicle at least on *prima facie* basis. Only then the onus to disprove shifts to the other side.

6.1 The High Court, thus, in holding that the claimant had failed to prove the involvement of the Tata Magic in the accident or that it was owned by respondent No.1 or that the same was insured with respondent No.2 committed no error. It has to be held that the liability of payment of compensation could not be fastened on the respondent-insurance company. The setting aside of the judgment and award passed by the Tribunal was justified.

7. The appeal stands dismissed.

In view of dismissal of the main appeal as above, all pending interlocutory applications would not survive and are accordingly disposed of.

....., J.  
[ K. VINOD CHANDRAN ]

....., J.  
[ N.V. ANJARIA ]

**NEW DELHI;  
SEPTEMBER 04, 2025.**

(VK)