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MA-3391-2023

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI

ON THE 10<sup>th</sup> OF SEPTEMBER, 2025

MISC. APPEAL No. 3391 of 2023

*VIJAY SINGH SONDHIYA DECEASED THROUGH LEGAL HAEIR  
SMT. RAMKALA BAI AND OTHERS*

*Versus*

*DARYAV BAI AND OTHERS*

.....  
Appearance:

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned  
counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent No.8 /  
State.*

.....  
WITH

MISC. APPEAL No. 3198 of 2023

*VIJAY SINGH SONDHIYA (DECEASED) THR LRS. SMT. RAMKALA  
BAI AND OTHERS*

*Versus*

*PHOOL SINGH AND OTHERS*

.....  
Appearance:

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned  
counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent  
No.8 / State.*

.....

**MISC. APPEAL No. 3206 of 2023**

***VIJAY SINGH SONDHIYA (DECEASED) THR LRS SMT. RAMKALA  
BAI AND OTHERS***

*Versus*

***PREMBAI AND OTHERS***

.....  
**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned  
counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent  
No.8 / State.*

.....  
**MISC. APPEAL No. 3210 of 2023**

***VIJAY SINGH SONDHIYA (DECEASED) THR LRS SMT. RAMKALA  
BAI AND OTHERS***

*Versus*

***RAMCHANDRA AND OTHERS***

.....  
**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned  
counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent  
No.8 / State.*

.....  
**MISC. APPEAL No. 3213 of 2023**

***VIJAY SINGH SONDHIYA (DECEASED) THR LRS SMT. RAMKALA  
BAI AND OTHERS***

*Versus*

***PREMSINGH AND OTHERS***

.....  
**Appearance:**



*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent No.8 / State.*

.....

**MISC. APPEAL No. 3232 of 2023**

***VIJAY SINGH SONDHIA (DECEASED) THROUGH LRS SMT.  
RAMKALA BAI AND OTHERS***

*Versus*

***PREMSINGH AND OTHERS***

.....

**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent No.8 / State.*

.....

**MISC. APPEAL No. 3235 of 2023**

***VIJAY SINGH SONDHIA (DECEASED) THROUGH LRS SMT.  
RAMKALA BAI AND OTHERS***

*Versus*

***KESHAR BAI AND OTHERS***

.....

**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent*



*No.8 / State.*

.....  
**MISC. APPEAL No. 3240 of 2023**

***VIJAY SINGH SONDHIA (DECEASED) THROUGH LRS SMT.  
RAMKALA BAI AND OTHERS***

*Versus*

***RAMCHANDRA AND OTHERS***

.....  
**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned  
counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent  
No.8 / State.*

.....  
**MISC. APPEAL No. 3243 of 2023**

***VIJAY SINGH SONDHIA (DECEASED) THROUGH LRS SMT.  
RAMKALA BAI AND OTHERS***

*Versus*

***LALSINGH AND OTHERS***

.....  
**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned  
counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent  
No.8 / State.*

.....  
**MISC. APPEAL No. 3246 of 2023**

***VIJAY SINGH SONDHIA (DECEASED) THROUGH LRS  
RAMAKALA BAI AND OTHERS***

*Versus*

**BHANWARLAL AND OTHERS****Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent No.8 / State.*

**MISC. APPEAL No. 3248 of 2023**

**VIJAY SINGH SONDHIYA (DECEASED) THROUGH LRS  
RAMAKALA BAI AND OTHERS**

*Versus*

**DEVSINGH AND OTHERS**

**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent No.8 / State.*

**MISC. APPEAL No. 3252 of 2023**

**VIJAY SINGH SONDHIYA (DECEASED) THROUGH LRS  
RAMAKALA BAI AND OTHERS**

*Versus*

**PREMSINGH AND OTHERS**

**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned*



*counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent  
No.8 / State.*

.....  
**MISC. APPEAL No. 3345 of 2023**

***VIJAY SINGH SONDHIYA DECEASED THROUGH LRS. SMT.  
RAMKALA BAI AND OTHERS***

*Versus*

***SHAMBHU AND OTHERS***

.....  
**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned  
counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent  
No.8 / State.*

.....  
**MISC. APPEAL No. 3353 of 2023**

***VIJAY SINGH SONDHIYA (DECEASED) THROUGH LEGAL HAEIR  
SMT. RAMKALA BAI AND OTHERS***

*Versus*

***DARIYAV SINGH AND OTHERS***

.....  
**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned  
counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent  
No.8 / State.*

.....  
**MISC. APPEAL No. 3388 of 2023**



***VIJAY SINGH SONDHIYA DECD. THR LRS. SMT. RAMKALA BAI  
AND OTHERS***

*Versus*

***RODJI AND OTHERS***

.....  
**Appearance:**

*Ms.Surbhi Bahal, learned counsel for the appellant.*

*Mr.Hem Chandra Naik, Advocate with Mr.Himangi Naik, learned  
counsel for respondent No.6.*

*Mr.Anand Bhatt, learned Government Advocate for respondent  
No.8 / State.*

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**ORDER**

This bunch of appeals have been filed under Section 173(1) of the Motor Vehicles Act, 1988 by the respective appellants against a common award dated 09.02.2023, passed by the II Additional Member, Motor Accident Claims Tribunal, Rajgarh, District Rajgarh (M.P.) in MACC Nos.22/2017, 24/2017, 20/2017, 14/2017, 23/2017, 16/2017, 19/2017, 11/2017, 12/2017, 13/2017, 18/2017, 15/2017, 10/2017, 17/2017 and 21/2017.

2. The appeals have been filed by the legal representatives of the original owner of the offending vehicle, namely Vijay Singh Sondhiya, who were impleaded as legal representatives of respondent No.2 in the claim petitions in terms of the order dated 05.04.2022 passed by the Claims Tribunal thereby allowing the claimants to implead them.

3. The challenge to the impugned award is on two counts :

(i) that there was contributory negligence on the part of the driver of



the vehicle in which the deceased persons were sitting; and

(ii) that the legal representatives of responded No.2 are not liable to pay compensation, as nothing from the estate of the deceased owner of the vehicle has come into their hands after his death.

4. The brief facts of the case are that on 13.12.2016, 15 persons were going in an auto to their village, Hirankhedi. When the auto reached near Chokhi Dhani Dhaba on Rajgarh Bioara Road NH-12, respondent No.1 Jagdish came driving bus bearing registration number MP-09-FA-2067 in a rash and negligent manner and while coming from the wrong side, collided with the auto. As a result, all 15 occupants of the auto sustained grievous injuries and died on the spot.

4.1 Information regarding the accident was given to Police Station Rajgarh, where an FIR was registered at Crime No.756/2017 under Sections 279, 337, 338 and 304-A of the IPC read with Section 184 of the Motor Vehicles Act.

4.2 The legal heirs of all 15 persons filed separate claim petitions under Section 166 of the Motor Vehicles Act claiming compensation for their deaths. The Claims Tribunal, after considering the evidence on record, concluded that the offending vehicle was being driven in a rash and negligent manner, which caused the accident. The accident resulted in the death of 15 persons, accordingly, compensation was awarded to all the claimants based on the assessed income of the deceased persons. In each cases, different amounts of compensation were awarded.

5. Learned counsel for the appellants submit that the Claims Tribunal,





while awarding compensation, has decided the question of liability against the owners. It has been concluded, while deciding Issue No.3, that the vehicle was being plied in breach of the Insurance Company on account of the absence of a valid permit for the bus and also due to the absence of a valid driving licence with the driver/respondent No.1. Accordingly, the Claims Tribunal directed that the Insurance Company shall first pay the compensation and then recover the same from the owner/driver of the vehicle.

5.1 Learned counsel further submits that, while arriving at this conclusion, the Claims Tribunal has completely overlooked the evidence of Shiv Singh Sondhiya (DW-4). She submits that in para 6 of his cross-examination, he (DW-4) specifically stated that there is no immovable property in the name of his late father, Vijay Singh, and that there is no land in his name, although he admitted that his father was the owner of the offending vehicle. Thus, she submits, a defence was taken by the appellants to the effect that the legal representatives are not liable to pay compensation, but no finding has been recorded by the Claims Tribunal in this regard.

5.2 She further submits that, in the evidence of driver of the vehicle, Jagdish, it has clearly come on record that all 15 persons, who died in the accident were travelling in the auto. It is a matter of common knowledge that an auto has a seating capacity of one plus three. Therefore, the auto in which deceased persons were sitting was being plied in breach of the provisions of the Motor Vehicles Act, this was a contributory factor to the accident. Hence, in view of the contributory negligent of the auto, a deduction of 50% ought



to have been made from the compensation awarded.

5.3 She submits that all these facts have not been considered by the Claims Tribunal while passing the impugned award. Thus, she prays for setting aside of the impugned award.

5.4 In support of her submissions, learned counsel has relied on the order of co-ordinate Bench of this Court in *M.A. No.2316/2020 (Rajendra Rathore and Others vs. Ramesh Kaushal and Others)* as well as the order passed by the Jurisdictional High Court of Delhi in *Darshan Lal vs. Sunny and Others* in *MAC.APP. 383 of 2023* and also on the judgement of the Madras High Court in *National Insurance Company Limited vs S. Muthu and Others* in *C.M.A. (MD) No.1573 of 2012*.

5.5 As regards the argument about no liability of the legal representatives, she has placed reliance on the judgement of the Jurisdictional High Court of Allahabad rendered in *Bhagwan Singh vs Saheb Singh and Others* in *Civil Misc. Writ Petition No.7434 of 1980*.

6 . *Per contra*, learned counsel for the claimants as well as the Insurance Company supported the findings of the award. It has been stated by the counsel for the Insurance Company that, in fact, the appeals are not maintainable at all for the reason that the appellants have not deposited the mandatory amount of Rs.25,000/- as required under Section 173(1) of the Motor Vehicles Act.

6.1 On the merits of the case, learned counsel points out that he has filed a reply to the application i.e. I.A. No.7498 of 2025 *vide* Document No.6835 of 2025 filed by the appellants for interim relief. Along with the



said reply, the order dated 05.04.2022, whereby the present appellants were impleaded in the claim case as legal representatives of the deceased owner of the vehicle has also been filed.

6.2 He has also placed on record the revenue records i.e. the Khasra of the agricultural land belonging to the appellants situated in village Talakala, Tehsil and District Rajgarh. Thus, he submits that the appellants have incorrectly stated that there was no land in the name of the deceased owner of the vehicle or the present appellants.

6.3 Apart from this, an order dated 14.08.2018 passed in Criminal Revision No.1145/2017 relating to the framing of charges in the criminal case arising out of the accident has also been filed as Annexure R-4. In the said order, it has been noted that the co-ordinate Bench of this Court rejected the criminal revision petition and upheld the order of the learned trial Court, which had correctly framed charges under Section 304 Part II of the IPC.

6.4 He further submits that, in effect, the present appellants were already on record before the Claims Tribunal; however, no specific plea with respect to their liability to pay compensation in the capacity of legal representatives was raised by them before the Claims Tribunal. Thus, the same cannot be permitted to be raised at the appellate stage in the present proceedings.

6.5 Learned counsel for respondent has placed reliance on the judgement of Punjab and Haryana High Court rendered in the case of *Baldev Singh etc. vs Kamaljit Kaur etc.* in *Civil Misc. No's.525-CII and 526-CII of 2004 and First Appeal from Order No.146 of 2004 (O and M)*.



7. Learned counsel for the State adopts the arguments advanced by the learned counsel for the Insurance Company.

8. Heard learned counsel for the respective parties and perused the record.

9. As regards the question of liability of the present appellants in their capacity as legal representatives of the original respondent No.2, Vijay Singh, who was the owner of the offending vehicle, it is evident that no plea was raised to that effect before the Claims Tribunal. From the statement of Shiv Singh Sondhiya (DW-4), it is nowhere forthcoming that he raised any plea to the effect that he or the other legal representatives are not liable to pay compensation as legal representatives of the deceased owner of the motor vehicle. No such objection or reply was placed on record by the appellants during the proceedings.

9.1 It is a settled principle of law that where legal representative are made liable to pay compensation in proceedings before the Court, such liability can be enforced only to the extent of the estate of the deceased. The amount may be recovered by attachment and sale of the deceased's property.

10. Learned counsel for the appellants, in the course of the arguments, has contended that the property referred to in the revenue records pointed out by the learned counsel for the Insurance Company is Joint Hindu Family Property, i.e., ancestral property. Hence, it cannot be treated as part of the estate of the deceased Vijay Singh and the appellants cannot be held liable to pay compensation from such property.

11. On due consideration of the submissions made by the learned



counsel for the appellants, this Court is of the opinion that the same are not in consonance with the law of the land. The provisions of Sections 52 and 53 of the Code of Civil Procedure provide for contingencies where a decree is passed against a party in their capacity as the legal representative of a deceased person. In particular, Section 53 of the Code provides for the liability of ancestral property. It states that, for the purposes of Sections 50 and 52, property in the hands of a son or other descendant which is liable under Hindu law for the payment of the debts of a deceased ancestor in respect of which a decree has been passed shall be deemed to be the property of the deceased which has come into the hands of the son or other descendant as a legal representative.

12. Thus, it is not only settled through various pronouncements of the Hon'ble Apex Court, but also codified in statute, that to the extent property devolves from a deceased ancestor into the hands of a legal representative, such legal representative is liable to pay the debts of the deceased, including under a decree.

13. In such circumstances, the appellants were required to make out a clear case before the Claims Tribunal, showing from the property held by the family, the extent to which such property (share of the deceased owner) devolved upon them on the death of the owner of the vehicle.

14. Learned counsel for the Insurance Company has already demonstrated, by placing documents on record, that there exists ancestral property in the name of the family of the appellant, including the appellants themselves.



15. Considering the fact that the Claims Tribunal has directed the Insurance Company to first pay the compensation amount to the claimants and then recover the same from the owner/driver of the vehicle, this question is not required to be decided in the present proceedings, the liability of the appellants is limited only to the extent provided under Sections 52 and 53 of the Code of Civil Procedure. Therefore, they are always at liberty to raise such a defence in appropriate proceedings. no interference is called for on this aspect.

16. As regards the question of contributory negligence, a bare perusal of the statement of the driver of the vehicle, Jagdish (DW-1) reveals that in para 1 of his examination-in-chief, he stated that he was driving the offending vehicle. When he reached near Kishangarh Ghati, a truck loaded with grass was stationed in front of a Dhaba. After he overtook that truck, he noticed that dead bodies were lying on the road, with an auto parked beside them. He tried to park the bus off the road, while doing so it overturn. Thereafter, he informed the police about the accident. In the entire statement there is not even a whisper regarding any negligent driving on the part of the driver of the auto. None of the witnesses have stated that the auto was being driven in a rash and negligent manner. It is also not clear from the evidence what the capacity of the vehicle referred to as an auto actually was.

17. On the contrary, all the witnesses examined have unequivocally stated that the bus was being driven in a very fast, rash and negligent manner. In the statements recorded by the police in the criminal case (Exs. P-17 to P-41), all the eye-witnesses consistently stated that the driver of the bus was



operating the vehicle in a fast, dangerous and negligent manner. They further stated that the teaching staff, who were travelling in the bus along with several other passengers, repeatedly requested the driver to slow down the vehicle, but he did not heed their warnings. It is also stated by many of them that the driver of the bus deliberately collided with the auto, causing the bus to overturn and resulting in the death of all 15 persons sitting in the auto.

18. It is, therefore, clear from the evidence available on record that the accident occurred solely due to the rash and negligent driving of the bus driver.

19. It is a settled principle of law that merely committing a breach of traffic rules does not, by itself, amount to contributory negligence on the part of a vehicle involved in an accident.

20. The Hon'ble Apex Court in the case of *Mohd. Siddique v. National Insurance Co. Ltd.*, (2020) 3 SCC 57 held as under :

*"12. But the above reason, in our view, is flawed. The fact that the deceased was riding on a motorcycle along with the driver and another, may not, by itself, without anything more, make him guilty of contributory negligence. At the most, it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988, imposes a restriction on the driver of a two-wheeled motorcycle, not to carry more than one person on the motorcycle. Section 194-C, inserted by Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for motorcycle drivers and pillion riders. Therefore, the fact that a person was a pillion rider on a motorcycle along with the driver and one more person on the pillion, may be a violation of the law. But such violation by itself, without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim. There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the accident upon the victim. It may so happen at times,*



*that the accident could have been averted or the injuries sustained could have been of a lesser degree, if there had been no violation of the law by the victim. What could otherwise have resulted in a simple injury, might have resulted in a grievous injury or even death due to the violation of the law by the victim. It is in such cases, where, but for the violation of the law, either the accident could have been averted or the impact could have been minimised, that the principle of contributory negligence could be invoked. It is not the case of the insurer that the accident itself occurred as a result of three persons riding on a motorcycle. It is not even the case of the insurer that the accident would have been averted, if three persons were not riding on the motorcycle. The fact that the motorcycle was hit by the car from behind, is admitted. Interestingly, the finding recorded by the Tribunal that the deceased was wearing a helmet and that the deceased was knocked down after the car hit the motorcycle from behind, are all not assailed. Therefore, the finding of the High Court that 2 persons on the pillion of the motorcycle, could have added to the imbalance, is nothing but presumptuous and is not based either upon pleading or upon the evidence on record. Nothing was extracted from PW 3 to the effect that 2 persons on the pillion added to the imbalance.*

*13. Therefore, in the absence of any evidence to show that the wrongful act on the part of the deceased victim contributed either to the accident or to the nature of the injuries sustained, the victim could not have been held guilty of contributory negligence. Hence, the reduction of 10% towards contributory negligence, is clearly unjustified and the same has to be set aside."*

21. A bare perusal of the above para makes it clear that the merely because a vehicle has breached provisions of the Motor Vehicles Act, it cannot be presumed that it contributed to the accident. There must be some material evidence corroborating the negligence of that vehicle, there must be a causal connection between the violation and the accident or a causal connection between the impact of the accident upon the victim. There is complete absence of any such evidence in the present case. On the contrary the driver of the offending vehicle admits that there was a vehicle loaded with grass standing in front of the Dhaba and he overtook the same. The





eyewitnesses who were present in the bus itself also stated that the driver was driving the bust very fast and they repeatedly requested him to slow down but he deliberately dashed into the auto. It is thus clear that cause and impact both are due to the negligence of driver of the bust and none else.

22. As regards the case of *Darshan Lal (supra)*, relied upon by learned counsel for the appellants, the facts in that case were materially different. In the said case, not only excessive loading of goods recorded by the Court, but it also emerged that the Scooty was being ridden in a lane meant for heavy vehicles such as buses. Additionally, the cargo loaded on the vehicle extended beyond the body of the vehicle, which directly caused the accident. As such, corroborative material was available in the said case.

23. Similarly, in the case of *S. Muthu (Supra)*, it has been recorded in para 9 that the rider of the motorcycle was in an intoxicated state at the time of the accident.

24. In view of the above findings, the appeal of the appellants fails on both counts. The contributory negligence of the auto is not established. The Claims Tribunal has not erred in recording its findings in paras 60 and 61 of the impugned award regarding the absence of contributory negligence on the part of the auto.

25. As regards the liability of the legal representatives/present appellants for payment on behalf of the deceased owner of the vehicle, it has already been decided herein above in terms of Section 52 and 53 of the Code of Civil Procedure. The Insurance Company is at liberty to enforce the "pay and recover" direction as issued by the Claims Tribunal. The defence



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regarding the extent of liability will remain available to the appellants in the recovery proceedings before the appropriate forum.

26. With the aforesaid, all the appeals stand disposed off.

Certified copy as per rules.

**(PAVAN KUMAR DWIVEDI)**  
**JUDGE**

Anushree