

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**FIRST APPEAL NO. 586 OF 2001**

United India Insurance Co. Ltd.,  
Mansing Market, 2<sup>nd</sup> Floor,  
Near Railway Station,  
Jalgaon

APPELLANT

VERSUS

1. Nilabai Sheshrao Patil,  
Age : 25 years

2. Anusayabai Dhondu Patil  
Age : 61 years

Both r/o Khedi Khadke,  
Tal. Erandol, Dist. Jalgaon

3. Bhaskar Ramdas Chaudhari,  
R/o Erandol, Dist. Jalgaon

4. Sau. Lilabai Nimbajirao Patil,  
R/o Shivajinagar, Erandol

RESPONDENTS

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Mr. S.G. Chapalgaonkar, Advocate for the applicant  
Mr. M.N. Navandar, Advocate for respondents No. 1 and 2  
Mr. A.M. Gholap, Advocate for respondents No. 3 and 4

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**CORAM : M.T. JOSHI, J.**

**DATE : 05/02/2015**

**ORAL JUDGEMENT :**

1. Heard both sides.

2. The admitted facts would show that the deceased

was travelling in a goods truck alongwith eighteen other persons, as the learned Member of the Motor Accident Claims Tribunal has decided in all 19 motor accident claim petitions arising out of the same accident. It was the case of the claimants that the deceased was travelling in the said goods truck i.e. Tata-407 bearing registration No. MH-19/2599, as a passenger.

3. In view of the ratio laid down in the case of **"New India Assurance Company Vs. Satpalsing and others"** reported in **AIR 2000 235**, which was then holding the field, the learned Member of the Motor Accident Claims Tribunal has granted the compensation to the claimants. The ratio laid down in the said authority i.e. **"New India Assurance Company Vs. Satpalsing and others"** is, however, overruled in the case of **"Smt. Mallawwa, etc. Vs. Oriental Insurance Co. Ltd. and others"**, reported in **AIR 1999 S.C. 589**. In that view of the matter, the present appellant i.e. the insurer of the goods vehicle would not be liable to indemnify the owner or driver of the goods vehicle in payment of compensation. In the result, the following order:-

4. The appeal is hereby allowed without any order as to cost. The direction of the learned Member, Motor Accident Claims Tribunal, Jalgaon in the order dated 28.09.2000 passed in M.A.C. Petition No. 212/1993, to jointly and severally pay the compensation to the original claimants i.e. present respondents No. 1 and 2, is hereby set aside, to the extent of the present appellant. Instead, the Motor Accident Claims Petition No. 212/1993 is dismissed without any order as to costs, as regards the present appellant.

. The amount deposited in this Court by the appellant be refunded to the appellant after a period of sixty days from the date of this judgement.

. The present appeal accordingly stands disposed of.

5. In view of disposal of the first appeal, civil application No. 807/2002 does not survive and hence, stands disposed of accordingly.

**[M.T. JOSHI]**  
**JUDGE**