

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.499 OF 1999

WITH

CIVIL APPLICATION NO.6299 OF 1997

Haribhau Shivram Pawase,
age adult, occ. Transport,
r/o. Hivargaon, Pawase,
Tq.Sangamner, Dist.Ahmednagar ..Appellant

Versus

- 1] Tarabai Gopinath Kathawate,
age 45 years, occ. Household,
r/o. Brahman Galli Shevgaon,
Tq. Shevgaon, Dist.Ahmednagar
- 2] New India Assurance Co., Ltd.,
Manager, Ahmednagar ..Respondents

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Mr.P.P.Dawalkar, advocate i/b. Mrs.C.S.Deshmukh,
advocate for appellant

Mr.V.N.Upadhye, advocate for respondent no.2

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CORAM : M.T. JOSHI, J.

DATE : JANUARY 20, 2015

ORAL JUDGMENT :

Heard Mr.Davalkar, learned counsel for the
appellant and Mr.Upadhye, learned counsel for
respondent no.2. None present for rest of the
respondents.

2] The only issue in the present appeal is whether, present appellant i.e. owner of the truck, is liable to pay the compensation for the death of deceased – Subhash, due to rash and negligent driving of the truck driver.

3] Learned Member has held that since the deceased was traveling by the goods vehicle i.e. truck of present appellant, the respondent no.2 – New India Assurance Company Ltd. cannot be directed to indemnify the compensation of Rs.45,000/- awarded by learned Member.

4] The accident has occurred on 7th June, 1990. Therefore, in view of the ratio in the case of **Ramesh Kumar Vs. National Insurance Co. Ltd., AIR 2001 SC 3363**, the insurer is not liable to indemnify the owner of the goods vehicle, even if the plea of the owner of the goods vehicle would

be that the deceased was traveling in the goods vehicle, as an owner of the goods.

5] In the circumstances, the plea of original claimant – Tarabai that the deceased was traveling in the said truck with bags of cattle-feed would not change the position as has been held by learned Member of Motor Accident Claims Tribunal.

6] In the circumstances, the appeal is hereby dismissed without any order as to costs.

. Civil Application for grant of stay to the execution of the award, therefore, does not survive an the same stands disposed of.

[M.T. JOSHI, J.]