

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

FIRST APPEAL NO. 122 OF 2014

WITH CA/10164/2009 IN FA/122/2014 WITH CA/15038/2013 IN
FA/122/2014

New India Assurance Company Ltd. ... **Appellant**
Havign its head and Registered office at
Mumbai, Branch Office at Latur and
Divisional office at Aurangabad.

VERSUS

1. Muktabai w/o Nana Koli (Mane)
Age 28 years, Occu: Household
2. Kum Hena d/o Nana Koli (Mane)
Age 15 years, Occu: Education
3. Bharat s/o Nana Koli (Mane)
Age 13 years, Occu: Education
4. Nitin s/o Nana Koli (Mane)
Age 11 years, Occu: Education
2 to 4 minors udner the guardianship
of mother, respondent No.1.
All r/o Mataji Nagar, Latur
5. Shaikh Javed Inayatulla ... **Respondents**
Age 28 years,Occu: Business
R/o Teli Gali, Latur

Mr. S. L. Kulkarni, Advocate for the appellant
Mr. A. V. Patil h/for Mr. S. P. Dobale, Advocate for respondents 1 to 4
Mr. R. P. Adgaonkar, Advocate for respondent No.5

WITH

FIRST APPEAL NO. 664 OF 2014

WITH CA/10162/2009 IN FA/664/2014

New India Assurance Company Ltd. ... **Appellant**
Havign its head and Registered office at
Mumbai, Branch Office at Latur and
Divisional office at Aurangabad.

VERSUS

1. Datta Maruti Jadhav
Age 30 years, Occu: Nil
R/o Veer Hanumantwadi, Latur

2. Shaikh Javed Inayatulla
Age 28 years, Occu: Business
R/o Teli Gali, Latur

... **Respondents**

Mr. S. L. Kulkarni, Advocate for the appellant

Mr. Mr. K. A. Kadam, Advocate for the respondent No.1-claimant

Mr. R. P. Adgaonkar, Advocate for respondent No.2

CORAM : T. V. NALAWADE, J.

DATE : 16th July, 2015

JUDGMENT:

1. Both appeals are filed to challenge the judgment and order of the Commissioner, appointed under the Workmen's Compensation Act (Labour Court, Latur) in Application (WCA) Nos. 110/2006 and 109/2006.

2. Application (WCA) No.110/2006 was filed by the original applicants/ present respondents 1 to 4 in FA No.122/2014 in respect of death of one Arjun Mane (Koli), husband of original applicant No.1. The other applicants are the minor issues of applicant no.1, born from the deceased Arjun. The second proceedings i.e. Application (WCA) No. 109/2006 was filed by one Datta Jadhav in respect of injury sustained by him in the same accident.

3. Both the sides are heard.
4. The appeals are filed by the Insurance company. It is the case of the insurance company that the registered owner of the vehicle was different and the registered owner had insured the vehicle. It is contended that the so called employer of the deceased and insured had not purchased the insurance policy and so the insurance company is not liable to indemnify him. It is also the contention of the insurance company that as the matter was filed under the provisions of Workmen's Compensation Act, it was necessary to establish the relationship between the registered owner of the vehicle and the victim, of employer employee. Learned counsel submitted that the substantial question of law needs to be formulated on the this contention of the insurance company. No other point is raised in the appeal.
5. The learned counsel for the insurance company placed reliance on the decision reported in **AIR 1998 SUPREME COURT 257, Oriental Insurance Co. Ltd. Vs. Sunita Rathi and others.**

The facts of the reported case were altogether different and the facts show that the policy of insurance was issued on the date of the accident but some time after the accident and there was clear mention in the policy of the date and also the time from which it

becomes effective. In view of this facts, the Apex court held that the insurance company was not liable to indemnify the owner. There was no insurance coverage at the time of accident.

6. On the other hand, the learned counsel for the respondents placed reliance on the case reported in **2014 (3) MH.L.J.440 (Mr. Tarachand Shrawanji Shambharkar Vs. Prashant s/o Ramchandra Hiranwar & others)**. In this case, this Court has laid down that when transfer of vehicle took place, certificate of insurance and the policy also get transferred in favour of the transferee of the vehicle automatically.

7. So far as interest of third party is concerned, the law is already settled by the Hon'ble Apex Court on this point in the case reported in **1999 (2) SCR 467 (G. Govindan Vs. New India Assurance Co. Ltd. & ors.)** and insurance company cannot take such defence even in matters filed under the provisions of Workmen's Compensation Act. Thus, no substantial question of law as such is involved in the two appeals. In the results, both the appeals stand dismissed.

(T. V. NALAWADE, J.)

JPC