IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE, BENCH AT AURANGABAD

FIRST APPEAL NO. 2655 OF 2015

1 Walmik Devram Patil, Aged 56 Years, Occupation Nil **APPELLANTS**

2 Ratnabai Walmik Patil, Aged 53 Years, Occupation Nil

Both Resident of Shirdane Pra Dangri, Taluka and District Dhule

V E R S U S

1 Gulab Daga Patil, Aged Major, Occupation Agriculture, Resident of Shirdane Pra Dangri, Taluka and District Dhule **RESPONDENTS**

2 The Oriental Insurance Company Ltd., Lane No.5, Bhavsar Complex, Near Municipal Girls High School, Dhule

Mr. Shrikant S. Patil, Advocate for the Appellants
Mr. Rupesh Bora, Advocate, holding for
Mr. Kishor D. Pande & Mr. B.A. Dhengle, Advocates
for Respondent No.2

CORAM : A.V. NIRGUDE, J.

DATE : 26th August, 2016

ORAL JUDGMENT :

1. Heard.

2. Admit.

3. By consent of both the parties, this appeal is taken up for final hearing and heard finally.

4. The appellants are original claimants in Motor Accident Claim Petition No. 456 of 2007, before the Motor Accident Claims Tribunal, Dhule, which came to be dismissed on 3rd November, 2012.

5. Most of the facts are admitted. The appellants' son Vijay died in motor-vehicle accident on 19th December, 2006, at about 06.30 p.m. on a public road. He was riding a motorcycle belonging to respondent no.1 - Gulab Daga Patil. With him, his friend Yogesh was occupying the pillion seat. The accident occurred only due collision of the motorcycle on the road divider. Respondent No.1's motorcycle was insured with package policy, in which extra premium was paid for the covering risk of the owner as well as pillion rider.

Respondent No.2 – Insurance Company opposed the claim on the ground that the insurance contract did not contemplate protection to the rider other than owner of the vehicle. This contention of the Insurance Company was upheld by the learned Member. Therefore, this appeal arose.

6. The question that arose for my consideration of this appeal is, whether the insurance policy covered not only the owner of the motorcycle, but also his representative? The answer is in affirmative.

A person would buy a motorcycle mainly for his personal use and he would buy an Insurance Policy, which would cover risk to him and his pillion rider. Such insured owner of a motorcycle would have occasions to lend his motorcycle to his friends and family members. The only care at the time of such lending is that the owner should ensure that the person who would use and ride his motorcycle has a valid driving licence. At one time, the motorcycle can be ridden only by one person. So, if the owner is not riding a motorcycle, his authorized representative would automatically get protected by the insurance policy. The Insurance Company cannot say that they would protect only the owner when he would ride the motorcycle and not his authorised representative. This is logical also because the contract of insurance covers risk of an unnamed pillion rider. In other words, anyone who would occupy pillion seat, is protected with the Insurance Policy. Therefore, the contention of the Insurance Company that the policy covers only the owner of the motorcycle is not correct and acceptable.

7. In view of this, the appeal would succeed. This claim was filed under Section 163-A of the Motor Vehicles Act. For deciding such claim, there is no need to prove negligence. The amount of compensation is calculated on the basis of structured formula in Schedule-II. The deceased in this case had income of Rs.3,000/- per month and was about 22 years old. In view of the table, the appellants would be entitled for the

compensation of Rs.3000/- ÷ 2 = 1500 x 12 x 17 = 3,06,000/-. As per the structured formula in the table, the appellants are also entitled to funeral expenses of Rs.2,000/- and compensation for loss of estate of Rs.4,500/-. Thus, the total amount comes to Rs.3,12,500/-.

8. The respondents shall jointly and severally shall pay Rs.3,12,500/- with interest @8% per annum from the date of Appeal till its realization to the appellants.

Thus, the Appeal is allowed in above terms.

(A.V. NIRGUDE, J.)

srm/26/8/16@