

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

FIRST APPEAL NO.: 1254 OF 2005

1. Ramkisan S/o Devidas Sapathe,
Age: 40 years, Occu.: Agriculture.
2. Devidas S/o Sambha Sapathe,
Age: 60 years, Occu. Agriculture.

Both R/o Chandeshwar.
Taluka & Dist. Latur.

... **APPELLANTS**
(ORIG.DEFT.1 & 2)

VERSUS

1. Harubai W/o Kondiba Gaikwad,
Age: 50years, Occu: Household,
R/o Chandeshwar, Tq. & Dist.
Latur.

... **RESPONDENT**
(ORIG. CLAIMANT)

Mr. P. V. Mandlik, Senior Counsel for the Appellant.
Mr. R. R. Deshmukh, Advocate h/f Mr. R.B. Deshmukh, Advocate for
Respondent No.1.
Mr. A. B. Kadethankar, Advocate for the Respondent No.2
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CORAM:-
DATED:-

T. V. NALAWADE, J.
21st JANUARY, 2016.

ORAL JUDGMENT:

1. The appeal is filed by original respondent, owner of
Claim Petition No.239 of 2001 to challenge the decision as
right is given to the insurance company to recover the
compensation amount from the owner after making the
payment to the claimant. Both the sides are heard.

2. It is the case of the claimant that he received dash of offending vehicle which was being driven by Respondent No.1 Ramkisan. Before Tribunal, both the sides gave evidence. Insurance Company took the defence that there was no driving licence of Ramkisan and this defence is proved. In view of this circumstance, as there was the breach of conditions of policy, the Tribunal has held that the insurance company is entitled to recover the amount by using the same Award from the owner. There is nothing with the Respondent No.1 or the owner to show that the Respondent No.1 was holding the licence to drive. On the basis of specific evidence and the record, the Tribunal has arrived at that conclusion. In view of the settled position of law, there is no possibility of interference in the decision given by the Tribunal.

3. In the result, the appeal stands dismissed.

(T. V. NALAWADE, J.)

Dated:21/01/2016.
ans/1254