IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

First Appeal No.1189 of 2014

National Insurance Co. Ltd. .. **Appellant.**

Versus

Satyanarayan s/o Dhondiram Lohiya
And Others. .. **Respondents.**

Shri. S.V. Kulkarni, Advocate, for appellant.

Shri. G.R. Syed, Advocate, for the respondent No.7.

CORAM: T.V. NALAWADE, J.

DATE : 22nd JANUARY 2016

ORDER:

1) The appeal is filed to challenge the judgment and award of Claim Petition No.105 of 2005 which was pending before the Claims Tribunal Latur. Both the sides are heard.

2) The Insurance Company has challenged the judgment and award on following two grounds (1) that the deceased was occupying private car, jeep and so the Insurance Company is not bound to indemnify the owner;

and, (2) two vehicles were involved in the accident and so the Tribunal ought to have considered the point of composite negligence and the Tribunal ought to have apportioned the liability.

3) The learned counsel for the original claimants placed on record copy of judgment delivered by this Court in First Appeal No.978 of 2014 on 17-11-2015. It appears that this Court, other Hon'ble Judge, considered the aforesaid contentions, and held that it was a comprehensive policy and such risk was covered. This Court has further observed that the plea of limited liability is not available to the insurance company.

4) The second ground raised by the Insurance Company cannot be available as the deceased was occupying a jeep and he did not contribute in the accident. When it is the case of composite negligence the victim is entitled to proceed as against one of the two joint tort feasers and it is settled law. In view of this circumstance, there is no force in the second ground also.

5) It appears that notice of the present proceeding is not served on the respondent Nos. 1 to 5 as they were not found on the address. In view of the aforesaid circumstances both the sides are heard for admission purpose. Nothing can be achieved by admitting the appeal in view of the aforesaid circumstances.

6) In the result, the appeal stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

rsl