

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

**WRIT PETITION NO.9301 OF 2014 WITH
CIVIL APPLICATION NO.2314 OF 2016**

Bajaj Allianz General Insurance Co. Ltd.
through its Authorised Signatory
2nd Floor, Rajendra Chamber,
Adalat Road, Aurangabad

... PETITIONER

VERSUS

- 1) Smt. Surekhabai wd/o Baban Dhule,
Age 43 years, Occu. Household
- 2) Miss Chandrakala d/o Baban Dhule,
Age 26 years, Occu. Education
- 3) Miss Jayashri d/o Baban Dhule,
Age 22 years, Occu. Education
- 4) Miss Sandhya d/o Baban Dhule,
Age 20 years, Occu. Education
- 5) Miss Pratiksha d/o Baban Dhule,
Age 17 years, Occu. Education
- 6) Prafulla s/o Baban Dhule
Age 14 years, Occu. Education

Since Respondent Nos.5 & 6 are
minor, u/g of mother, respondent No.1

All R/o RM-285, Shivalaya Chowk,
Bajaj Nagar, M.I.D.C., Waluj,
Aurangabad

- 7) Mrs. Menabai w/o Popat Mhaske,
Age major, Occu. Business,
R/o RX-6-18/2, Wadgaon Kolhati,
M.I.D.C., Waluj, Taluka and
District Aurangabad
(Owner of the vehicle No.MH-16-Q-2628)

- 8) Mr. Narayan s/o Babasaheb Dhande,
Age 37 years, Occu. Driver,
R/o village Limba, Tq. Shirur,
District Beed
(Driver of the vehicle
No.MH-16-Q-2628) ... RESPONDENTS

.....
Shri A.D. Kasliwal, Advocate for petitioners
Shrei J.N. Singh, Advocate for respondent No.3
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CORAM: T.V. NALAWADE, J.

DATED: 23rd December, 2016.

ORAL JUDGMENT :

1. Rule. Rule returnable forthwith. Heard both sides by consent for final disposal.

2. The present petition is filed by the respondent of Claim Petition No.96/2012 against the order on Exh.80. The application at Exh.80 was filed by the present petitioner, Insurance Company for recalling witness No.3 examined by the claimants for proving the driving licence of the driver of the offending vehicle. The Insurance Company wants to ascertain that there is entry of renewal of licence in the register maintained by R.T.O. Office. There is one document showing that the licence was renewed for the period 17/3/2011 to 16/3/2014. It appears that, in the cross-examination, this

witness admitted that there was such renewal of the licence and subsequent to the cross-examination, certified copy of that entry came to be produced. It is the grievance of Insurance Company that in the chief examination, the witness had not uttered a word about this renewal. In view of this circumstance, the Insurance Company wants to show to the Court that there was probably no renewal in respect of this year though the certificate is issued by R.T.O. Office, Beed.

3. This Court has seen the evidence of the aforesaid witness. It appears that, no objection was taken when the relevant entry, the entry for renewal for the period 1/7/2011 to 16/3/2014 was brought to the notice of the witness and as there was no objection, these entries were brought on the record in evidence. In view of this circumstance and as the claim is filed by the widow and three minor children, this Court holds that some costs need to be deposited in the Tribunal by the Insurance Company. If it is found that there was such entry in the register maintained by R.T.O. Office, Beed, this cost amount will be payable to the claimants.

4. In the result, the petition is allowed. The order passed by the Tribunal on Exhibit 80 is set aside. The application Exhibit 80 is allowed. This order is subject to deposit of costs of

Rs.20,000/- (Rupees twenty thousand) by the Insurance Company in Claims Tribunal within two weeks from today and only after depositing the cost amount, the witness summons is to be issued. If in the register there is such entry, the cost amount is to be paid to the claimants and if there is no such entry, the amount is to be returned to the Insurance Company. Rule is made absolute in the aforesaid terms.

5. In view of disposal of the Writ Petition, Civil Application No.2314/2016 stands disposed of.

(T.V. NALAWADE, J.)

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