

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 1186 OF 2013
WITH
CIVIL APPLICATION NO. 3339 OF 2013**

The New India Assurance Co. Ltd.

... Appellant
(Ori.Opponents)

vs.

Smt. Dimakhabai Popat @ Ashok Shinde 7 ors.

... Respondents
(Ori.Applicants)

Mr. D. S. Joshi, Advocate for the appellant.

Mr. Tushar N. Sonawane, Advocate for respondent no.6.

Coram : Smt. R. P. SondurBaldota, J.

Date : 28th March, 2016.

P.C.

1. This appeal by the Insurance Company challenges the compensation awarded to respondents no.1 to 5 for the death occurred in a motor-vehicle accident. Mr. Joshi, the learned advocate for appellant in fairness states that quantum of the compensation awarded to respondents no.1 to 5 can not be said to be unreasonable. The appellant, however, claims that it is not liable to pay any compensation to respondents no.1 to 5 because the driver of the offending vehicle was not holding a valid and effective driving licence at the time of the accident. Therefore,

respondent no.6, the owner of the vehicle cannot be indemnified against payment of compensation. The appellant examined an Officer from the Licencing Department, R.T.O. from where the licence to the driver of the offending vehicle was issued. That licence had been renewed by the driver from another place i.e. R.T.O., Gopalganj (Bihar). If that renewal is taken into account it would mean that the driver of the offending vehicle held valid licence at the time of the accident. Mr. Joshi refers to Section 15(6) of the Motor Vehicles Act which provides that where the authority renewing the driving licence is not the authority which issued the driving licence it shall intimate the fact of renewal to the authority which issued the licence. The Officer from the Licence Department, R.T.O. Nashik examined by the appellant stated that no intimation had been received from R.T.O., Gopalganj of renewal of the licence of the driver of the offending vehicle. Merely because the record of R.T.O., Nashik does not have an intimation from R.T.O., Gopalganj, (Bihar), it is not possible to ignore the entry of renewal of the driving licence. The appellant had issued a witness summons to R.T.O., Gopalganj. There was no response to that witness summons. Thereafter, appellant for the reason known to itself did not consider it fit to carry the matter any further. In the circumstances, the Tribunal has rightly accepted the entry of

renewal on the driving licence of the driver of the offended vehicle.

2. The other ground on which the appellant challenges the award is that there was no negligence on the part of the driver of the offending vehicle. According to the appellant, there was negligence on the part of the deceased himself in driving the motorcycle. The issues raised on these contentions by the Tribunal are issues no.2 and 4. The Tribunal has on appreciation of the depositions of the witnesses noticed that the owner of the offending vehicle has not seriously challenged the contention of negligence taken by respondents no.1 to 5. Thus, he indirectly admits the contention. As regards the appellant it is noted that no question was put in cross-examination to the witness of respondents no.1 to 5 on this aspect. In the circumstances, the appellant cannot be permitted to contend in this Court that there was no negligence on the part of the driver of the offending vehicle. Hence, challenge to the impugned award is without merit. The appeal is dismissed.

3. In view of the dismissal of the appeal, Civil Application No. 3339 of 2013 does not survive. The same is, accordingly, disposed off. The office to transfer the amount of statutory deposit of Rs.25,000/- to the Motor Accident Claims Tribunal, Nashik.