IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 413 OF 2016
WITH
CIVIL APPLICATION NO. 4093 OF 2015

Shriram General Insurance Co. Ltd.	...	Appellant
V/s.		
Mrs.Shamal Pappu Hanavate & Ors.	...	Respondents

WITH
CIVIL APPLICATION NO. 3652 OF 2018
IN
FIRST APPEAL NO. 413 OF 2016

Mrs.Shamal Pappu Hanavate & Ors.	...	Applicants
In the matter between		
Shriram General Insurance Co. Ltd.	...	Appellant
V/s.		
Mrs.Shamal Pappu Hanavate & Ors.	...	Respondents

- Mr.Nikhil Mehta i/b. KMC Legal Venture for the Appellant.
- Mr.Rajshekhar S. Alange for Respondent Nos.1 to 4.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 10th OCTOBER, 2018.

P.C. :

1] Heard learned counsel for the parties.

2] This Appeal is directed against the judgment and order dated 26/02/2015 passed by the Chairman, Motor Accident Claims Tribunal, Solapur, thereby allowing the Petition bearing M.A.C.P.

No.101 of 2011 and holding the Claimants entitled to total compensation of Rs.9,80,000/- with interest at the rate of 7.5% p.a.. The award is passed against the Insurance Company and the registered owner of the vehicle.

3] The award is challenged in this Appeal by the Appellant-Insurance Company mainly on account that the driving licence of the driver of the offending vehicle was found to be fake one and there is finding to that effect recorded by the Tribunal itself at para Nos.9, 10 and 11 of its order. In view thereof, learned counsel for the Appellant submits that the Insurance Company should have been totally exonerated from the liability of paying the compensation amount. However, the Tribunal has inflicted joint and several liability of the Insurance Company and the owner of the vehicle. Hence, according to him, the interference is warranted in the impugned judgment and award of the Tribunal.

4] The owner of the vehicle i.e. Respondent No.5 is duly served with notice of this Appeal, but has not appeared.

5] In the opinion of this Court, as according to the well settled principle of law, the Insurance Company is liable to first pay the amount of compensation to the Claimants and thereafter entitled to recover the same from the owner of the vehicle; the impugned judgment and award of the Tribunal is required to be modified to the extent that the Insurance Company after paying the amount of compensation, as awarded by the Tribunal to the Respondents-Claimants is entitled to recover the said amount from Respondent No.5-the owner of the vehicle, along with interest as awarded by the Tribunal and also the costs of litigation. Ordered accordingly.

6] The amount of Rs.25,000/- deposited in the Court be transferred to the Tribunal.

7] In view of the above, the Appeal alongwith Civil Application(s) therein stand disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]