

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

First Appeal No. 0724 of 2018

District : Beed

The New India Assurance Co. Ltd.,
Through its Branch Manager,
Jalna Road, Beed,
Taluka & Dist. Beed,
Through its authorised signatory,
Sr. Divisional Manager,
Aurangabad D.O. Legal Hub,
Aurangabad.

.. Appellant
(Original
respondent
no.02)

versus

1. Dnyanoba s/o. Namdeo Kasbe,
Age 58 years,
Occupation : Agriculture,
R/o. Bahegahon,
Taluka Wadwani,
Dist. Beed.

2. Manohar s/o. Namdeo Kasbe,
Age 55 years,
Occupation : Agriculture,
R/o. Bahegahon,
Taluka Wadwani,
Dist. Beed.

3. Dnyaneshwar Alias Appa
s/o. Jyotiba Khot,
Age 55 years,
Occupation : Business &
Driver,
R/o. Pusara,
Taluka Wadwani,
Dist. Beed.

.. Respondents
(Nos.01 & 02
- Original
claimants
&
No.03 -
Original
respondent
no.01)

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*Mr. Dhananjay P. Deshpande, Advocate, for the
appellant.*

Respondents no.01 to 03 served (Absent).

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 03RD JULY 2019

ORAL ORDER :

Heard learned Advocate for the appellant.
None for respondents no.01 to 03 though served.

02. Learned Advocate for the appellant has submitted that the original claim petition itself has been disposed of by the learned Member of the Motor Accident Claims Tribunal, Majalgaon, on 26-03-2019, thereby the petition i.e. M.A.C.P. No. 19 of 2008 was dismissed. He has produced the certified copy of the judgment and award passed by the Tribunal in M.A.C.P. No. 19/2008. Same is taken on record.

03. Present appeal was in respect of the order passed below Exhibit 05 under Section 140 of the Motor Vehicles Act, 1988. As regards that amount is concerned, it has been observed by the learned Member, that since amount of '*no fault liability*' has not been deposited by the respondent therein in that Court, it appears that the learned Member restrained himself from making any final order; but then observed that if it would have been deposited and withdrawn, then it can be recovered by the

respondents. Learned Advocate for the appellant submits that the statutory amount of Rs. 25,000/- has been deposited in this Court and it is still with this Court; it has not been withdrawn by the respondents and rest of the amount of Rs. 25,000/- has not ben deposited by the appellant.

04. Since the main petition itself has been dismissed, now this appeal has rather become infructuous. Taking into consideration the fact that the point of liability has been decided finally and, therefore, it deserves to be disposed of as infructuous.

05. Hence, the first appeal is disposed of as having become infructuous. The amount that has been deposited by the appellant be refunded to the appellant.

(Smt. Vibha Kankanwadi)
JUDGE

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