IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO. 10185 OF 2015
WITH
CIVIL APPLICATION NO. 12687 OF 2016

Latabai wd/o. Raosaheb Deshmukh,
Age 55 years, Occu. Household &
Agriculture, R/o. Aaradgaon, Tal. Rahuri,
Dist. Ahmednagar. **....Petitioner.**

Versus

1. State of Maharashtra
Through the Commissioner Agriculture,
Commissionrate of Agriculture,
M.S. Central Buildig, 3rd Floor,
Pune – 411001.

2. The Member Secretary,
District Controlling Committee,
Ahmednagar i.e. the District
Superintendent Agriculture Officer,
Ahmednagar.

3. The Deccan Insurance & Reinsurance
Brokers Pvt. Ltd.
Through it's Regional Manager, 201,
Mount Wart Zenit, Office No. 201,
Opp. L.G. Showroom, Near Baner
Telephone Exchange, Baner Road,
Baner, Pune – 411 045.

4. Liberty Videocon General Insurance
Company Limited, 10th Floor, A Tower,
Peninsula Business Park, Ganpatrao Kadam
Marg, Loar Parel, Mumbai 400014. **....Respondents.**

Mr. V.Y. Bhide h/f. Mr. A.S. Pavse, Advocate for petitioner.

Mr. P.N. Kutti, AGP for respondent Nos. 1 & 2.

Mr. S.G. Chapalgaonkar, Advocate for respondent No. 4.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**
DATED : 06/03/2019

JUDGMENT :

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The petition is filed to challenge the communication dated 10.3.2015 of respondent No. 4 Insurance Company by which it is informed that the claim of the petitioner under Shetkari Janta Apghat Vima Yojna (शेतकरी जनता अपघात विमा योजना) is rejected. The Insurance Company has given two reasons for rejection of the claim which are as under :-

(i) On the date of the accident which took place on 28.11.2014 the deceased was riding motorcycle, but he was not holding valid driving licence.

(ii) Alcohol was detected in his body when the post mortem was conducted.

In the same communication, it is informed that the accidental deaths in which aforesaid two circumstances are noticed are not covered by the Government Policy and also by the Insurance Policy.

3) This Court has carefully gone through the scheme prepared by the State Government. First Government Resolution (G.R.) was issued on 19.8.2004 and by it to some extent relief to the families of farmers was given in case of the death of the farmer in the motor vehicle accident, due to snake bite, due to flood and due to strike of lightening. The Government had decided to ensure that all the farmers of the State were given cover of insurance. As per the scheme, every year applications were to be invited from Insurance Companies and one Insurance Company was to be selected and policy for all the farmers of the State was to be purchased from that Insurance Company. For the death, the compensation of Rs. One lakh was to be given by Insurance Company and there was provision to pay compensation in respect of injuries sustained also. The premium was to be paid by the State Government and the scheme was implemented in the year 2004.

4) G.R. dated 5.1.2005 shows that the dependents of the deceased farmers were expected to supply the documents only in accordance with the G.R. and annexure for that was given to this G.R. It was the record like age proof to show that the deceased was from age group of 15 to 70 years, he was having agricultural land

and proof for that like 7/12 extract and 8A extract was to be given, the certificate issued by Talathi to show that the claimant was the successor of the deceased and some record for verification of the age was also to be produced. In the G.R. of 2005, it was made clear that no compensation would be payable if it was suicide, if the accident had taken place when the farmer was under the influence of intoxicant, when it was natural death and when it was in respect of the injury already sustained. Another annexure of this G.R. shows that when there was death in road accident, the record like copy of F.I.R., copy of spot panchanama, copy of report prepared by police and copy of P.M. report was to be produced.

5) In the past, the aforesaid scheme was known as 'Personal Insurance Scheme' and in the year 2009 the name was changed to make it as Shetkari Janta Apghat Vima Yojna. In the G.R. dated 4.12.2009 the things which need to be ascertained by the Insurance Company are mentioned. It is made clear that only the farmer who was responsible for the accident is excluded and if death takes place, in that case, his successors are not entitled to get the compensation. One more clause is there, to the effect that if the farmer who had met with motor vehicle accident was himself driving or riding the vehicle and he was not holding valid driving licence,

then he (or his dependents) may not be entitled to get the compensation as it is necessary to produce the valid driving licence. However, in annexure some documents, which were mentioned in previous G.R. are mentioned and they need to be produced by the farmers or his successors. There is one more G.R. dated 24.8.2008, but in that G.R. more particulars are given like the persons who become entitled to get the compensation but other requirements are similar.

6) The learned counsel for Insurance Company submitted that in the present matter, the P.M. report showed that alcohol was detected in the intestine and so, no compensation can be given as per the aforesaid scheme. The aforesaid scheme does not show that the detection of intoxicant, alcohol in the intestine is sufficient to reject the claim. The requirement is that the deceased was under influence of liquor, intoxicant. Thus, the claim could not have been rejected on this ground. Further, there was only smell of alcohol and on the basis of this circumstance, the claim could not have been rejected. No further investigation like sending viscera to C.A. Office was not done.

7) When the Insurance Company contends that the

deceased was not holding valid licence, the burden is on the Insurance Company to prove that there was such breach of conditions of policy. The aforesaid scheme does not show that it was necessary for the successors of the deceased farmer to produce the driving licence. On what basis the Insurance Company has contended that the driving licence had expired and it was not got renewed at the relevant time is not stated. As the burden was on the Insurance Company, only by contending that there was no driving lincece at the relevant time, the claim could not have been rejected. There is one more circumstance which shows that the claim could not have been rejected on any of the above grounds in the present matter. The submissions made show that the deceased was riding two wheeler, but unknown vehicle gave dash to his vehicle and due to that accident took place. There is copy of F.I.R. dated 30.11.2014 and there is a copy of spot panchanama dated 28.11.2014. The accident took place on 28.11.2014 at about 9.15 p.m. and it shows that probably four wheeler had given dash to motorcycle and then the deceased was run over by the four wheeler. This report was given by a relative of the deceased and spot panchanama is consistent with that contention. The motorcycle of deceased was present on the correct side of the road and there was nothing to infer that accident had taken place due to the fault of the deceased.

Even if the agreement between the State and Insurance Company is considered, there is nothing in the agreement to show that the claim could have been rejected by the Insurance Company. In view of these circumstances, this Court holds that the Insurance Company has committed serious mistake in rejecting the claim of the petitioner. In view of the scheme prepared for the benefit of the farmers which can be seen in the G.R. of 2009, its binding nature on the Insurance Company, this Court holds that not only compensation needs to be given to the petitioner, but interest also needs to be paid as provided in G.R. of 2009.

8) The accident took place on 28.11.2014 and the claim was submitted in time, though the Insurance Company has contended that the proposal was received by it on 9.3.2015. The decision is expected within two months from the date of receipt of the proposal and if the decision is not taken, then for first three months after completion of two months, interest is payable at the rate of 9% p.a. and thereafter the interest is payable at the rate of 15% p.a. In the present matter, in view of the aforesaid contentions of the Insurance Company, this Court holds that the interest on the amount of Rs. One lakh is payable by the Insurance Company for three months starting from 9.5.2015 and for the remaining further

period the interest will be payable at the rate of 15% p.a. The amount of Rs.one lakh and the interest is to be given by the Insurance Company within 45 days from today to the petitioner. In aforesaid terms, the petition is allowed. Civil Application is disposed of. Rule is made absolute in aforesaid terms.

[SUNIL K. KOTWAL, J.] **[T.V. NALAWADE, J.]**

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