**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**NAGPUR BENCH : NAGPUR**

**FIRST APPEAL NO. 1364 OF 2017**

Shriram Genral Insurance Co. Ltd. thr. Its Divisional Manager, Nagpur
vs.
Vikesh Janraoji Ghyar and others.

**FIRST APPEAL NO. 1365 OF 2017**

Shriram Genral Insurance Co. Ltd. thr. Its Divisional Manager, Nagpur
vs.
Sriniwas @ Niwas Njanardhanraoji Mahalle and ors.

**FIRST APPEAL NO. 1366 OF 2017**

Shriram Genral Insurance Co. Ltd. thr. Its Divisional Manager, Nagpur
vs.
Sanjayrao Madhukarrao Dongare and others

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Office Notes, Office Memorandum of Coram, Court's or Judge's orders
appearances, Court's orders of directions
and Registrar's orders

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Shri. P. N. Khadgi, cousnel for appellant Ins. Co.
Shri. S. S. Alaspurkar, counsel for respondent No.1

**CORAM : Manish Pitale J**
**DATED : 10.10.2019**

These are appeals filed by the insurance company being aggrieved by judgments and orders dated 29.10.2014, 05.11.2014 and 18.10.2014 passed by the Motor Accident Claims Tribunal, Amravati, whereby the Tribunal allowed the claim applications filed by the claimants and directed various amounts of compensation payable to them.

2. The only ground raised in all these appeals on behalf of the appellant insurance company is that since the claimants were travelling in a mini truck as gratuitous passengers they were not entitled to grant of compensation. The incident in the present case took place on 12.07.2010 when the mini truck in which claimants were travelling dashed into a stationary truck that was negligently parked in the middle of the road. It was contended on behalf of the appellant insurance company that since the claimants were gratuitous passengers in the said mini truck, the Tribunal ought not to have granted compensation in their favour.

3. A perusal of the facts of the present case, as recorded by the Tribunal in the impugned judgments and orders, would show that the appellant insurance company was insurer of the stationary truck, which was negligently parked in the middle of the road, due to which the incident had occurred when the mini truck carrying claimants and other passengers dashed into the stationary truck. Therefore, admittedly, insofar as the appellant insurance company was concerned, the claimants were third parties and it was in such capacity that the claims were raised in the present case on behalf of the claimants.

4. In this situation, it becomes clear that the contentions regarding gratuitous passengers raised

on behalf of the insurance company cannot be accepted and the appellant cannot escape liability even if the said contention raised on its behalf was to be examined because the claimants being third parties, there was no question of such a defence being raised by the appellant insurance company in the facts of the present case.

5. Therefore, the said ground raised on behalf of the appellant insurance company cannot be accepted. As this was the only ground urged on behalf of the appellant insurance company, there is found no merit in the appeals. Accordingly, the appeals are dismissed.

**JUDGE**

*KOLHE*