

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
939 CIVIL APPLICATION NO.3436 OF 2019 IN
FIRST APPEAL NO.720 OF 2019

NEW INDIA ASSURANCE CO. LTD., THR ITS
AUTHORIZED SIGNATORY AURANGABAD
VERSUS
KUSUM BABASAHEB NEHARKAR AND ORS

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Mr.S.S. Dargad h/f Mr.S.G. Chapalgaonkar,
Advocate for the applicant.
Mr.P.N. Muley, Advocate for respondent no.8.

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CORAM: V.L. ACHLIYA, J.
DATE : 22.01.2020

ORAL ORDER:

Pursuant to the order dated 08.01.2020 passed in the matter, learned counsel for respondent no.8 submits that the respondent no.8 is present in the Court. As per the instructions received from respondent no.8, the vehicle in question was not insured covering the date of accident. He submits that respondent no.8 has paid the premium to the insurance agent but he has not deposited the amount with the insurance company.

2. The appellant insurance company has challenged the order with contention that no order including the order under no fault liability could be passed by the Tribunal against the appellant – insurance company as

the deceased himself ridding the motorcycle. Therefore, he cannot be treated as third party to claim compensation from appellant - insurance company.

3. On due consideration of the submissions advanced in the light of challenge raised in the appeal, the following order is passed :-

ORDER

(i) The Civil Application is allowed in terms of prayer clause "B" to the extent of appellant-insurance company.

(ii) The claimants will be at liberty to execute the order against other respondents except the appellant-insurance company (original respondent No.4)

(iii) It is clarified that the pendency of this appeal shall not act as impediment for the Tribunal to proceed with case and decide the Claim Petition on merits.

(iv) The Civil Application is disposed of in above terms.

[V.L. ACHLIYA]
JUDGE