

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 FIRST APPEAL NO.1319 OF 2010

ORIENTAL INSURANCE CO LTD.
VERSUS
GUNTABAI MADHUKAR DHANGAR & OTHERS

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

Mr.Ravindra Misal, Advocate h/f/
Mr.P.N.Kutti, Advocate for the respondent
nos.1 to 6.

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CORAM : V.L.ACHLIYA,J.
DATE : 16.01.2020

P.C.

1] Learned counsel for the appellant submits that the present appeal is filed against the order dated 07.07.2009 passed by the Member, Motor Accident Claims Tribunal, Jalgaon in M.A.C.P.No.31/2009. By the impugned order, the Tribunal has awarded compensation of Rs.50,000/- under Section 140 of the Motor Vehicles Act, although the appellant – Insurance Company raised the objection that the risk of the deceased passenger was not covered. The deceased was traveling as a member of marriage party carried in the goods vehicle.

2] By order dated 17th June, 2011, this Court stayed the impugned order to the extent of the appellant—Insurance Company to operate during pendency of appeal.

3] During the pendency of appeal, the respondents—claimants have entered into settlement with the owner of the vehicle. The respondents—claimants have filed *pursis* to that effect on 09.05.2019, seeking withdrawal of the Claim Petition on the basis of settlement reached with the owner of the vehicle. Vide order dated 09.05.2019, the Court has recorded the settlement and disposed of Claim Petition as withdrawn. The certified copies of the *pursis* and the order passed by the Tribunal tendered taken on record and collectively marked 'X' for identification.

4] On due consideration of the submissions advanced, supported with the order dated 09.05.2019 passed by the Tribunal, I am of the view that Appeal deserves to be allowed to the extent of the appellant—Insurance Company. The impugned order dated 07.07.2009 passed in MACP No.31/2009 is set aside to the extent of

appellant—Insurance Company. The amount, if any, deposited by the appellant—Insurance Company with this Court or Tribunal and lying invested then same be refunded to the appellant—Insurance Company.

5] Appeal is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

DDC