

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

FIRST APPEAL NO.4432 OF 2016

Kotigiri Swarupa w/o. Gangadhar Kotgiri
and ors

..Appellants

Vs.

Angde Shivraj Kashinath and anr.

..Respondents

Mr.S.R.Bagal, Advocate for appellants
Mr.P.G.Rodge, Advocate for respondent no.1
Mr.S.G.Chapalgaonkar, Advocate for respondent no.2

**CORAM : R.G. AVACHAT, J.
DATE : OCTOBER 11, 2021**

ORDER :-

This is an appeal filed by the claimants taking exception to the award exonerating the insurance company of its liability to pay the compensation. No enhancement has been asked for in this appeal.

2. It was a case of breach of terms and conditions of the policy of insurance. Since the driver of the offending vehicle is said to have not held a valid and effective driving licence to drive the vehicle at the relevant time, the claimants did not produce the driving licence and therefore, the Tribunal has exonerated the respondent-insurance company of its liability to pay the compensation.

3. Now, the law has been well settled in such a case. The insurance company can be directed to pay the amount of compensation to the third party claimants and recover the same from the very owner of the offending vehicle. The Tribunal, as such, ought to have passed such order.

4. In the result, the appeal succeeds. The appeal is allowed in terms of the following order :-

(i) The order dismissing the claim petition against the respondent-insurance company is set aside.

(ii) The respondent-insurance company is directed to satisfy the impugned award and recover the amount from the owner of the vehicle in execution proceedings.

[R.G. AVACHAT, J.]

KBP