

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

FIRST APPEAL NO. 2316 OF 2019

**Shivshakati Constructions
Through it's Proprietor and Another ..APPELLANTS**

VERSUS

Pratibha Govinda Pujari and Others ..RESPONDENTS

**WITH CIVIL APPLICATION NO. 6741 OF 2021
WITH CIVIL APPLICATION NO. 15044 OF 2018
WITH CIVIL APPLICATION NO. 15045 OF 2018
WITH CIVIL APPLICATION NO. 15047 OF 2018
IN FIRST APPEAL NO. 2316 OF 2019**

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Mr. S.S. Tope, Advocate for appellants
Mr. S.B. Choudhari, Advocate for respondent nos. 1 to 3
Mr. S.G. Chapalgaonkar, Advocate for respondent nos. 4 and 5

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**CORAM : R.G. AVACHAT, J.
DATE : 06th AUGUST, 2021**

PER COURT :

1. Heard.

2. Admittedly, the appeal has been preferred by the owner of the vehicle involved in the accident. Before the tribunal, Respondent No.5 – United Indian Insurance Co. Ltd. was party under the assumption that it had granted insurance cover to the vehicle. It is however transpired that the said insurance company has not granted the insurance cover. It prima facie

appears that Respondent No.4 - IFFCO-TOKIO General Insurance Co. Ltd. has granted the insurance cover. A copy of policy of the insurance is placed on record. As such, IFFCO-TOKIO General Insurance Co. Ltd. did not have an opportunity to meet the case averred in the petition.

3. In the given facts and circumstances of the case, the impugned award dated 05th January, 2017 passed in M.A.C.P No. 247 of 2015 is set aside. The matter is remanded back to the Motor Accident Claims Tribunal, Aurangabad. The tribunal shall give a reasonable opportunity of hearing to IFFCO-TOKIO General Insurance Co. Ltd., who is allowed to be made party to the claim petition here itself. In case the claimants or the owner of the vehicle require to lead evidence to meet the case of insurance company, they too be afforded opportunity to lead evidence. The tribunal shall decide the claim petition on it's own merits, within a period of eight months from the date of receipt of copy of this order.

4. The amount deposited by the appellant – owner of the vehicle be transmitted to the tribunal for being kept in fixed deposit with any of the nationalised banks and shall abide by outcome of the claim petition. The said amount shall not be disbursed/returned for a period of three months next after decision of the claim petition. The parties to appear before the tribunal on 23rd August, 2021.

5. In view of aforesaid order, first appeal and the civil applications therein stand disposed of.

(R.G. AVACHAT, J.)

SSD