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

WRIT PETITION NO. 12529 OF 2021

The Oriental Insurance Co. Ltd.
Through its Divisional Manager,
Near Gopal Tea Centre Osmanpura, Aurangabad
Through its authorized signatory,
Administrative Officer, D.O.I.,
Oriental Insurance Co. Ltd., Aurangabad.
Ashutosh Dilipkumar Meshram,
Age : 29 years, Occu. Service. ...**Petitioner**

Versus

1. Arun Premchand Bakliwal,
   Age : 43 years, Occu. Agri.,
   R/o. Puri, Tq. Gangapur, Dist. Aurangabad.

2. District Agriculture Officer,
   Near Pardeshi Height, Shahnoorwadi,
   Tq. & Dist. Aurangabad.

3. Jaika Insurance Brokerage Pvt. Ltd.
   2nd Floor, Jaika Building, Commercial Road,
   Civil Lines, Nagpur- 440001. ...**Respondents**

.....

Shri. Dhananjay M. Deshpande, Advocate for the petitioner
Shri. P. G. Borade, AGP for respondent no. 2
Shri. S. B. Solanke, Advocate for respondent no. 1
Shri. S. S. Shinde, Advocate for respondent no. 3

.....

AND
CIVIL APPLICATION NO. 14012 OF 2021
IN
WRIT PETITION NO. 12529 OF 2021

Arun Premchand Bakliwal .... Applicant

Versus

The Oriental Insurance Co. Ltd.,
through it's Authorized Signatory & Ors. …. Respondents

…

Shri. S. B. Solanke, Advocate for the applicant
Shri. Dhananjay Deshpande, Advocate for respondent no.1/Insurance Company

….

AND

WRIT PETITION NO. 12530 OF 2021

The Oriental Insurance Co. Ltd.
Through its Divisional Manager,
Near Gopal Tea Centre Osmanpura, Aurangabad
Through its authorized signatory,
Administrative Officer, D.O.I.,
Oriental Insurance Co. Ltd., Aurangabad.
Ashutosh Dilipkumar Meshram,
Age : 29 years, Occu. Service. ...**Petitioner**

Versus

1. Vinayak s/o Fakirao Bodkhe,
   Age : 67 years, Occu. Agri.,
   R/o. Galleborgaon, Tq. Khultabad, Dist. Aurangabad.

2. The Taluka Agriculture Officer,
   R/o. Khultabad, Tq. Khultabad,
   Dist. Aurangabad.

3. Jaika Insurance Brokerage Pvt. Ltd.
   2nd Floor, Jaika Building, Commercial Road,
   Civil Lines, Nagpur- 440001. ...**Respondents**

.....

Shri. Dhananjay M. Deshpande, Advocate for the petitioner
Shri. P. G. Borade, AGP for respondent no. 2
Shri. S. B. Solanke, Advocate for respondent no. 1

.....

AND

CIVIL APPLICATION NO. 14066 OF 2021
IN
WRIT PETITION NO. 12530 OF 2021

Vinayak Fakirao Bodkhe & Ors. …. Applicants

Versus

The Oriental Insurance Co. Ltd.,
through it's Divisional Manager & Ors. …. Respondents

…

Shri. S. B. Solanke, Advocate for the applicant
Shri. Dhananjay Deshpande, Advocate for respondent no.1/Insurance Company
Shri. P. G. Borade, AGP for respondent no. 2

….

AND
WRIT PETITION NO. 12532 OF 2021

The Oriental Insurance Co. Ltd.
Through its Divisional Manager,
Near Gopal Tea Centre Osmanpura, Aurangabad
Through its authorized signatory,
Administrative Officer, D.O.I.,
Oriental Insurance Co. Ltd., Aurangabad.
Ashutosh Dilipkumar Meshram,
Age : 29 years, Occu. Service. ...**Petitioner**

Versus

1. Rustum s/o Laxman Dhumal,
   Age : 73 years, Occu. Agri.,
   R/o. Khadgaon, Tq. Gangapur, Dist. Aurangabad.

2. District Agriculture Officer,
   Near Pardeshi Height, Shahnoorwadi,
   Aurangabad, Tq. & Dist. Aurangabad.

3. Jaika Insurance Brokerage Pvt. Ltd.
   2nd Floor, Jaika Building, Commercial Road,
   Civil Lines, Nagpur- 440001. ...**Respondents**

.....

Shri. Dhananjay M. Deshpande, Advocate for the petitioner
Shri. P. G. Borade, AGP for respondent no. 2
Shri. S. B. Solanke, Advocate for respondent no. 1

.....

AND

CIVIL APPLICATION NO. 14013 OF 2021
IN
WRIT PETITION NO. 12532 OF 2021

Rustum Laxman Dhumal …. Applicants

Versus

The Oriental Insurance Co. Ltd.,
through it's Divisional Manager & Ors. …. Respondents

…

Shri. S. B. Solanke, Advocate for the applicant
Shri. Dhananjay Deshpande, Advocate for respondent no.1/Insurance Company
Shri. P. G. Borade, AGP for respondent no. 2

….

AND

WRIT PETITION NO. 12533 OF 2021

The Oriental Insurance Co. Ltd.
Through its Divisional Manager,
Near Gopal Tea Centre Osmanpura, Aurangabad
Through its authorized signatory,
Administrative Officer, D.O.I.,
Oriental Insurance Co. Ltd., Aurangabad.
Ashutosh Dilipkumar Meshram,
Age : 29 years, Occu. Service. ...**Petitioner**

Versus

1. Dilip s/o Uttamrao Chavan,
   Age : 44 years, Occu. Agri.,
   R/o. Siddhnath Wadgaon,
   Tq. Gangapur, Dist. Aurangabad.

2. District Agriculture Officer,
Shahnoorwadi, Tq. & Dist. Aurangabad.

3. Jaika Insurance Brokerage Pvt. Ltd.
2nd Floor, Jaika Building, Commercial Road,
Civil Lines, Nagpur- 440001. ...**Respondents**

.....

Shri. Dhananjay M. Deshpande, Advocate for the petitioner
Shri. P. G. Borade, AGP for respondent no. 2
Shri. S. B. Solanke, Advocate for respondent no. 1

.....

AND

CIVIL APPLICATION NO. 14067 OF 2021
IN
WRIT PETITION NO. 12533 OF 2021

Dilip Uttamrao Chavan .... Applicant

Versus

The Oriental Insurance Co. Ltd.,
through it's Divisional Manager & Ors. .... Respondents

...

Shri. S. B. Solanke, Advocate for the applicant
Shri. Dhananjay Deshpande, Advocate for respondent no.1/Insurance Company
Shri. P. G. Borade, AGP for respondent no. 2

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CORAM : BHARATI H. DANGRE, J.

DATE OF RESERVING THE JUDGMENT : FEBRUARY 17TH, 2022
DATE OF PRONOUNCING THE JUDGMENT : FEBRUARY 23RD, 2022

JUDGMENT : -

1. The four writ petitions pose a challenge to the order passed by the Permanent Lokadalat, Aurangabad, in distinct Pre-litigation

Dispute Applications, which has held the petitioner/the Oriental Insurance Company liable for the payment of compensation to the claimants in the wake of the policy of the State Government and the petitions are filed being aggrieved by the said order, on a submission, that the impugned Award has erroneously fastened the liability on the insurance company, *dehors* the contract of insurance.

. Since the four writ petitions involve a common point of law and arise out of a common cause of action, they are heard together and decided by this common judgment.

2. Rule. Rule made returnable forthwith. Heard finally by consent of parties.

. Heard the learned Advocate Shri. Dhananjay Deshpande for the petitioner-Insurance Company, Shri. P. G. Borade, learned AGP for respondent no.2/State, Shri. S. B. Solanke, learned Advocate for respondents/Claimants and Shri. S. S. Shinde, learned Counsel for respondent no. 3 in WP No. 12529 of 2021.

3. The State of Maharashtra being a welfare State, aimed at protecting the health and well being of its citizens, was conscious of the precarious situation of a farmer, who, at times, has to face natural disasters as well as meet unforeseen contingencies like a road

accident, an electric shock, snake/scorpion bite, vehicle accident etc., while he is undertaking his agriculture avocation. These unforeseen events may at times take his life or cause disablement to him. The family of the farmer, who succumb to such unforeseen contingency, or the farmer, who sustain a disability, is left in a deleterious situation, with the source of livelihood being deprived to the family.

. This peculiar situation led the State Government to formulate a policy, since it was noted that the family of a farmer who meet untimely death or the farmer who sustain a disability, do not have any financial assistance through an independent insurance policy. This prompted the State Government to take various steps from time to time by issuing Government Resolution through the concerned Department of State i.e. Agriculture, Animal Husbandry, Dairy Development and Fisheries Department, to implement the 'Individual Farmer Accident Insurance Policy'. On passage of time, this policy was replaced in the year 2009-2010 by 'Shetkari Janata Apghat Vima Yojana' and this policy was in force since 2009-2010.

4. The Government, however, soon realized need for modification of the scheme and by issuing a Resolution on 04.12.2009, it modified the terms and conditions of the 'Shetkari

Janata Apghat Vima Yojana', which contemplated adherence to the terms and conditions stipulated in the Government Resolution and necessary instructions were issued to the Commissioner (Agriculture) to supervise the implementation of the scheme to ensure that the farmer, who is governed by the said scheme, is conferred with the benefits flowing therefrom, without any delay and with a object to relieve the farmer or his family of the distress, the manner in which the Insurance Company shall settle the claims of the insured was also provided by the said Government Resolution. A provision was also made by the Government for selection of the insurance company, in order to implement the policy of the State Government and it contemplated a Tripartite Agreement to be executed between the Government, Insurance Company and the concerned farmer. It was also directed to accord wide publicity, to the said policy so that it reach every farmer in the State.

. A copy of the Government Resolution dated 04.12.2009, containing the modified 'Shetkari Janata Apghat Vima Yojana' is placed on record and marked as Exh. ‘A’ to the petition.

. The said Government Resolution is appended with necessary details in the form of Appendix, which provide for the amount of compensation to be paid to the family of the farmer in case of his death and in case of the disability incurred by him and it also set out the terms of eligibility for availing the benefits of the scheme.

. The details of the scheme *qua* the eligibility would be discussed at a subsequent point of time when I come to the core issue involved in the petition.

5. The said policy, which was prevailing in the State, came to be further modified and renamed as 'Gopinath Munde Shetkari Apghat Vima Yojana', which was introduced by Government Resolution dated 01.12.2018 and this conferred a coverage upon a farmer who meet with an unforeseen contingency like an accident, resulting in his death or causing a disability and on occurrence of these contingencies, since the family is deprived of the source of livelihood, the scheme of insurance contemplated a coverage of 2.00 lakhs. In the year 2018-19, the scheme was implemented through 'Jaika Insurance Brokerage Pvt Ltd.' and a further extension of one year came to be granted to the said Insurance Company.

. In order to implement the scheme in the year 2018-19, e-tenders were invited by the Commissioner (Agriculture) for fixing the Insurance Company and a new Government Resolution came to be issued on 01.12.2018, to be implemented in the year 2018-2019 and two companies were chosen to provide insurance under the policy of the Government i.e. 'Jaika Insurance Brokerage Pvt Ltd.' and the 'Oriental Insurance Company Ltd' i.e. the petitioner-Company.

. The Government Resolution stipulated that for the year 2018-2019 i.e. for a period of 12 months, the farmers in the State would be provided an insurance coverage by the said Company and the petitioner - Company which was selected as one of the Insurance Company to provide insurance coverage to the farmers in the entire State of Maharashtra. The scheme contemplated the policy of insurance to the tune of Rs. 2.00 lakhs for an accidental death of the farmer, and other disability incurred by him, as stipulated in the Resolution. For insuring the farmers in the State, the brokerage, due to the two insurance companies was fixed for the year 2018-2019 and as far as the petitioner Company is concerned, the Company was to provide insurance to 1,36,98,965 farmers and brokerage along with the insurance premium to the tune of Rs. 47,26,14,292/- was earmarked for the petitioner-Company. In turn, the Insurance Company was to ensure the number of farmers prescribed for a period of 12 months. The minute details as regards implementation of the insurance scheme was also set out in the Government Resolution.

6. The State Government modified the existing scheme which insured the farmer, who faced an unforeseen contingency, resulting either in his death or in any sort of disability, as a result of the unforeseen event set out in the Government Resolution by issuing a Resolution on 31.08.2019 and as the prelude to the said Resolution, would reveal that the existing 'Gopinath Munde Shetkari Apghat Vima Yojana' covered only the individual farmer and did not extend the benefit to the family of the farmer and since there was no provision to deal with a contingency, when any member of a family of the farmer either succumbed to the accident or incurred any physical disability, the coverage of insurance was not available for him and on the death or injury being sustained by a member of farmer's family, no compensation was payable. This led to a demand by the farmers and their representatives to extend the benefit of the Insurance Scheme to the family of a farmer also. In consultation with the Hon'ble Minister (Finance), a budgetary provision was made for expanding the scope of the scheme of Insurance to cover 1.52 crore *khatedar* farmers and *non-khatedar* farmers by including one member from the family of the farmer and it was contemplated to extend the benefit to 3.04 crores insured in the State. This necessitated modification in the existing 'Gopinath Munde Shetkari

Apghat Vima Yojana' and by superseding the existing policy, the Government through its Resolution dated 31.08.2019 brought into effect a new policy of insurance for the farmers in the State of Maharashtra.

7. As per the policy rolled out through the Government Resolution dated 31.08.2019, one member of the family of the farmer who is a landholder and cultivator as well as a farmer who is a holder of a land but a non cultivator, any one member of his family (parents-mother and father, husband-wife, son, unmarried daughter) between the age group of 10 to 75, was covered under the insurance scheme/policy. Thus, now to mitigate the risk against an unforeseen contingency, the policy of insurance extended its coverage and included an act resulting into death or disability of the farmer himself and in addition, one other member of his family and the benefits available under the modified scheme covered a claim of Rs. 2.00 lakhs, in case of an accidental death or in case the disabilities mentioned in the policy.

. The scheme contemplated the coverage to be extended for the entire period of policy i.e. 24x7 and during the validity of the policy of insurance, if the cultivator landholder and the non-cultivator landholder, farmer or one member of his family meet with an accident or incur a disability, he was covered in the said policy and was entitled for compensation of Rs. 2 lac.

8. The salient features of the policy of the State Government being, neither the farmer nor his family member was required to pay any premium to the insurance company since the premium was to be paid by the State Government and even if the farmer or his family member had availed any other insurance benefit, the compensation flowing from the present policy would be available to him, without prejudice to the earlier policy. However, if the farmer or his family member had availed any benefit from any other department of the State Government on account of the accident, the policy under the Government Resolution would not provide him the benefit.

9. This policy is prevailing as on date and in all the four cases, when the family member of the landholder farmer met with an accident and was covered by the terms of the policy, they claim to be governed by the said Government Resolution.

. Dealing with facts in the cases before me, In Writ Petition No. 12529/2021, the deceased is the wife of the landholder farmer, who was covered under the 'Gopinath Munde Shetkari Apghat Vima Yojana' with the coverage period of 08.12.2018 to 07.12.2019 and the Insurance Policy was drawn to the tune of Rs. 2.00 lakhs. A tripartite agreement was also executed between the farmer through the State Government, the insurance Company and the broker selected by the State Government, agreeing to compensate the farmer to the extent of Rs.2.00 lakhs, in case of accident occurring between 08.12.2018 to 07.12.2019.

. In the said case, the wife of the landholder farmer, Priya succumbed to an accident on 31.01.2019, when she was caught in flames, while working on a household stove and she herself was not registered under the Farmers' Insurance Policy. The petitioner-Insurance Company repudiated her claim on the ground that she was not insured under the policy, which constrained the concerned claimant to approach the Permanent Lokadalat under Section 22-C(1) of the Legal Services Authorities Act, 1987, and a Pre-litigation Dispute Application No.53/2020 came to be registered, which raised a claim of compensation of Rs. 2.00 lakhs from the Insurance Company.

. In Writ Petition No.12530/2021, son of the claimant/farmer died due to drowning in heavy rains which lashed the region on 01.09.2019. The policy drawn by the claimant in the said case was for the period commencing from 08.12.2018 to 07.12.2019 and the deceased-son, was not registered under the policy. When the Insurance Company repudiated his claim, Pre-litigation Dispute Application No. 33/2020 was filed by the respondent no.1/claimant in the petition for compensation of Rs. 2.00 lakhs under the Insurance Policy.

. In Writ Petition No. 12532/2021, the claimant's wife died due to snake bite in the agricultural field on 14.10.2019. The policy obtained by the claimant i.e. respondent no. 1 to the petition/farmer was valid for a period from 08.12.2018 to 07.12.2019 and the deceased was not registered under the policy and he therefore instituted Pre-litigation Dispute Application No. 54/2020, claiming compensation of Rs. 2.00 lakhs.

. In Writ Petition No. 12533/2021, the claimant/farmer i.e. respondent no.1-son/Rohit died due to dog bite on 09.09.2019. The policy drawn by the claimant in the said case was for the period commencing from 08.12.2018 to 07.12.2019 and the deceased-son, was not registered under the policy. When the Insurance company repudiated his claim, Pre-litigation Dispute Application No. 51/2020 was filed by the claimant in the petition for compensation of Rs. 2.00 lakhs under the Insurance Policy.

10. Upon distinct applications being filed before the Permanent Lokadalat by the claimants claiming compensation for death of their

family member, on account of the unforeseen contingencies, which was covered under the insurance claim, a compensation of Rs.2.00 lakhs was claimed under the scheme of 'Gopinath Munde Shetkari Apghat Vima Yojana' to the tune of Rs.2.00 lakhs. The said application was filed under Section 22-C(1) of the Legal Services Authorities Act, 1987.

. The Permanent Lokadalat at Aurangabad adjudicated the said application by considering the claim therein to the effect that by GR dated 31.08.2019, one member of the family was extended the cover of the insurance policy and since the family member of the claimant/farmer succumbed, due to one of the cause which was covered by the GR, compensation of Rs.2.00 lakhs was claimed after completing the procedural formality of the claim being instituted in the office of Taluka Agriculture Officer. Claiming that the proposal was not processed and hence they approached the Permanent Lokadalat by lodging their claim for compensation under the Policy as well as claiming costs of Rs. 50,000/-.

. The Insurance Company resisted the claim by submitting that the GR dated 31.08.2019 is not attracted in the present case since the coverage of the scheme contained in the said Government Resolution is prospective in operation, whereas, the accident /contingency which resulted in death of the family member of the farmers, who filed the applications for compensation, had taken place prior to the coming into effect of the said policy i.e. w.e.f. 31.08.2019. Considering the coverage of the insurance policy, it is submitted that the benefit of the Government Resolution dated 31.08.2019, which covered the family member of a landholder farmer, was not available at the time when the insurance policy was procured by the claimant/farmer and it restricted the coverage only to the individual farmer. Contesting the claim by submitting that the deceased was not a registered farmer and since he/she was not fulfilling the eligibility criteria of the existing policy of the State Government, which only extended the benefit of insurance to the farmer himself, and since the family member was not entitled for the coverage of the insurance policy, is the stand taken by the Petitioner/ Insurance Company.

. The argument advanced on behalf of the Insurance Company did not find favour with the Lokadalat, which held, that the Government Resolution dated 31.08.2019 is applicable to the applicants before it, since from the date of it's issuance, one member of the family of the farmer is included in the scheme and since the person who died in the accident is the family member of the farmer, he is entitled to take the benefit of the scheme enforced from 08.12.2018 to 07.12.2019, as approved by the Government

Resolution dated 01.12.2018 and since the accident took place prior to 07.12.2019, the Government Resolution dated 31.08.2019, covered the case of the applicants.

. The claim staked in the applications came to be granted, the applicants being held to be the legal heirs of the deceased and compensation to the tune of Rs. 2.00 lakhs was awarded, with direction to pay interest at the rate of 9% from a particular period distinctly mentioned in the order and further interest of 15% to be paid till realization of the amount.

11. The learned Counsel for the Insurance Company i.e. the petitioner in the four petitions, Shri. Dhananjay Deshpande has invited my attention to the policy of the State Government contained in the various Government Resolutions, placed on record and on careful reading of the same, it can be well discerned that with the laudable object of insuring the farmer in the State against unforeseen contingencies, peculiar to his agricultural avocation i.e. road accident, strike by lightening, electric shock, flood, snake bite, scorpion bite, vehicle accident etc., resulting into either death of the farmer or any physical disability, the State Government introduced a scheme of drawing an insurance policy for the said farmer and the existing policy contemplated in Government Resolution dated

04.12.2009, underwent a substantial change when the State government floated a new policy on 01.12.2018 by bringing amendments to the 'Gopinath Munde Shetkari Apghat Vima Yojana' to be implemented for the year 2018-19. The petitioner-Insurance Company was chosen as the Insurer for 1,36,98,965 farmers and the Government Resolution covered a period of 2018-2019. A Tripartite Agreement came to be executed in the year 2018, with the individual farmer being insured through Commissioner (Agriculture) as the "insured" on the first part, and the broker/consultant on the second part and M/s. Oriental Insurance Company Ltd., on the third part.

. The distinct agreements placed on record in each petition would disclose it's recitals to the effect that the State Government had expressed it's desire to insure the farmers in the State of Maharashtra by giving them a personal accident policy for an insured sum of Rs. 2.00 lakhs and vide Government Resolution dated 01.12.2018, the insurance Company was appointed as the insurance company to give effect to the policy and the broker/consultant was appointed for the purpose of insuring the farmers in the State of Maharashtra under the 'Gopinath Munde Shetkari Apghat Vima Yojana'. Accordingly, an Memorandum of Understanding (MOU) was entered into between the Commissioner (Agriculture) and the broker/consultant setting out the duties and the responsibilities of both the parties.

12. The Tripartite Agreement consisted the policy terms and conditions as under : -

> “Policy Terms and Conditions :
>
> A policy to provide compensation to all farmers as defined in policy who sustains any bodily injury resulting solely and directly from accident caused by external violent and visible means resulting in specified contingencies such as death, permanent disablement or loss of limb.”

. The eligibility to be covered under the Policy was set out as under : -

> *“(II) Eligibility :*
>
> *The farmers name should be in the Land Record Register i.e. 7/12 on the date of the issuance of policy.”*

. The tripartite agreement also set out the procedure to be followed by the Insurance Company in settlement of the claims, by giving the details about the documents required to be submitted for decision on the claim. The amount of compensation to be paid and the list of the family members who were eligible to claim the compensation, was also set out in the said policy. It also contained an arbitration clause and set out the grievance procedure for settlement of claims.

. The copy of the individual policy is also placed on record of each of the petitions and from perusal thereof, it can be seen that the period of coverage of insurance is from 08.12.2018 to mid-night 07.12.2019. The number of persons covered in the policy is one and the sum insured per person is Rs. 2.00 lakhs.

. It is this agreement and the policy in favour of the individual claimant which has been construed by the Permanent Lokadalat to cover, one family member of the farmer alongwith the farmer himself and, therefore, on the said family member meeting an unfortunate death, the Permanent Lokadalat has held the legal heir of the said member, to be entitled for compensation.

13. Life is full of uncertainties and one may face various risks in day-to-day activities of life, including the risk to life, health, property and so on. Insurance is a tool specially created to reduce the financial impact on unforeseen events and offer some security in the event of such a contingency taking place. It works out by collecting contributions in form of premium paid and assuring a sum of money in case, one has to face the loss. The risk gets transferred, where the insurance carrier assumes the defined risk for the policy holders in exchange of a monthly, quarterly, yearly premium/fee by whatever name called for. An insurance contract is an agreement in which one

party i.e. the 'Insurer' undertakes to provide a guarantee of compensation for specific loss/damage/illness or death in return for payment of a specified premium. It is a contract represented by a policy, in which an individual or entity receives financial protection or reimbursement against losses from the Insurance Company. Insurance polices are used to hedge against the risk of financial loss, that may result from damage to the insured or his/her property or from liability to damage or injury caused to a third party.

. In short, the insurance is a contract in which the Insurer indemnifies another against the losses from specific contingencies or perils and the core component that make a insurance policies are the deductive policy limit and the premium.

. The contract of insurance works on insurable interest, good faith, proximate cause, indemnity, subrogation and contribution. It is based on principles of economic cooperation by pooling of risks. It is an agreement between the parties and is governed by a law of contract and when the Insurance Policy is issued, the parties i.e. the Insurer and the Insured, both are governed by the terms and conditions of the policy.

. The tripartite agreement placed on record by the petitioners will therefore have to be read in light of the nature of the contract entered into between the parties.

14. Under the policy of the State government, as covered by the Government Resolution dated 01.12.2018, the Insurance Policy was drawn in the name of the respective claimant/the farmer whose name was recorded in the Land Record Register on the date of issuance of the policy, i.e. the respondents respondent to the petitions and the coverage of the policy is for the period stipulated therein i.e. from 08.12.2018 to 07.12.2019 and it corresponded to the period of the tripartite agreement, which strictly governed the relationship between the parties. The policy provided compensation to all the farmers in the State and the term "farmer" is defined in the policy, as a farmer in Maharashtra as evidenced by 7/12 extract. A farmer between the age group of 10 to 75 is covered under the policy and he is entitled to draw compensation in the percentage of the capital sum insured, as stated in the policy. The policy set out the eligibility of the 'insured', as a person who is a farmer and whose name is recorded in the land record register i.e. 7/12, on the date of issuance of the insurance policy.

. The tripartite agreement is executed pursuant to the Government Resolution dated 01.12.2018 and on it's careful reading, it embodies that the policy coverage is intended for an individual farmer who meet premature death or sustain a disability on account of the contingencies mentioned in the Resolution and it contemplated the coverage 24/7 i.e. 24 hours in a day, for all 7 days, when an individual farmer meet with an accident or incur a disability. The petitioner-company was appointed as the Insurance Company for drawing the insurance policy of specified number of farmers for 12 months, to insure the farmers against the risk of accident and the policy specified the period of coverage.

15. On 31.08.2019, the State Government rolled out a new policy on demand of the farmers, in contrast to the existing one, as prescribed by Government Resolution dated 01.12.2018, under which the Government proposed to cover one member of the family of the farmer, in the policy, over and above, the individual farmer, who is a landholder and whose name is reflected in 7/12 extract. On bringing the new policy, the entire new mechanism was directed to be worked out under the Government Resolution dated 31.08.2019 and when the preface to the Government Resolution is meaningfully read, it indicate that for implementation of a new policy, approval was granted for selection of the insurance company and the consultant company for a period of one year, revenue division-wise and the new agency was directed to be selected for the period of two years, by working out the number of beneficiaries, the proposed claims and

pay out ratio. The details, subject to which the tenders were to be invited and allotted was also set out in the GR, for making selection of the Insurance Company. It was also clarified that the claim settlement would be effected through ECS, in the account of the farmer/his legal heir.

16. On reading of the said Resolution dated 31.08.2019, I cannot help, but to agree with the argument advanced by the learned Counsel for the petitioner-Insurance Company, to the effect that the new policy covering a member of the family had a prospective effect i.e. from 31.08.2019 onwards, and if a policy was earlier drawn by an individual farmer/claimant for the year 2018-2019, specifying the period of coverage, it covered only the individual farmer/the landholder as per the eligibility set out in the Government Resolution dated 01.12.2018 and though during the coverage of the said policy, a family member of the farmer met with an accident, the claim of insurance which was for a specified period and covered only the individual farmer, it would not extend the benefit to the family member of the farmer, since it was only in the new policy rolled out by the State Government on 31.08.2019, he was also eligible to be covered. I say so, specifically since insurance is a contract and the terms and conditions subject to which the contract is signed, cannot

be altered on the occurring of a subsequent event i.e. the State Government taking the decision to extend the benefit of the policy to one member of the farmer's family, as since the earlier tripartite agreement and the policy drawn is restricted to the individual farmer and the accident has occurred during the existence of the said policy and therefore, by extending the benefit of the modified policy of the State government, the coverage cannot be extended to one more member of the farmer's family. The insurance policy exclusively covered the farmer only and none else.

. The new policy rolled out by the State Government by GR dated 31.10.2019, contemplated identification/selection of the insurance company as well as the consultant, pursuant thereto tripartite agreements will have to be executed , as was done pursuant to the issuance of GR dated 01.12.2018 and thereafter the insurance policies will be required to be issued afresh, specifying the period of coverage of the policy, and it will cover the farmer as well as one member of his family, which can be either mother-father, spouse, children as set out in the Government Resolution. It is, however, incorrect to assume that the policy in favour of the claimants drawn on the basis of the GR dated 01.10.2018, would cover one more family member and the Counsel for the claimants, who strenuously relied upon clause 14 of the GR dated 01.10.2018, do not give any such indication. Clause 14 of the said Resolution refer to an MoU and a tripartite agreement to be entered into, on issuance of the Government Resolution and it contemplate that all those terms and conditions which are contemplated in the G.R. dated 04.12.2009 and 05.03.2011 as well as those terms and conditions which would made applicable in the future and the guidelines for adjudication of the insurance claims, it's procedure would be binding on the insurance company.

. Reading of the said clause by no stretch of imagination can be said to include extension of the coverage of the policy from one person to more than one person, merely because the wording used is "conditions made applicable in future". Since the policy of the insurance is a contract and the parties are bound by it's terms and conditions and when the State Government at a subsequent point of time bring change in it's policy to cover one more member of the family under the policy, the existing insurance policy based on the MoU and tripartite agreement pursuant to the Government Resolution dated 01.12.2018, will not cover a person other than the one eligible under the existing scheme, i.e. the farmer whose name is recorded on 7/12 extract.

17. The Permanent Lokadalat has thus erred in reading the provisions of the G.R. dated 31.08.2019 into the tripartite agreement executed pursuant to the Government Resolution dated 01.12.2018 and the policy of insurance with a coverage period specified, covering a single individual farmer, whose name is recorded in the Land Record Register on the date of issuance of the insurance policy but since the policy did not cover another member of his family, which can only be covered in a policy taken subsequent to 31.08.2019, the impugned orders, extending the benefit to the claimants, on account of the unfortunate death of their family member, cannot be sustained. It is unfortunate that the respondents / claimants are kept out of the benefit of insurance on account of death of a near family member, but since the policy of the State Government, which is rolled out is prospective, depending upon the steps to be taken by the State Government to implement it, the earlier policies based on the GR dated 01.12.2018, backed by the tripartite agreement, will not cover the claims, since they are not covered in the policy of Insurance.

18. The learned Counsel for the respondent-claimants have placed reliance on the decision of the Division Bench of this Court in the case of **Shakuntala Vs. The State of Maharashtra and Ors.**

reported in 2010 (2) Bom.C.R. 747, where the benefit of accidental insurance scheme came to be extended to the member of the family and the objection raised on technical ground, that the person who met with an accident was not a farmer, came to be rejected.

. Perusal of the facts involved, would reveal that the petition is filed by a mother, whose son met with an unexpected accidental death on 23.09.2005 and her claim for compensation under the insurance policy, came to be rejected on the ground that her son was not a registered farmer. The scheme that was prevailing at the relevant time was contained in Government Resolution dated 05.01.2005, issued by the Department of Agriculture and Animal Husbandry and it was a scheme in the form of Personal Insurance Policy for the benefit of the farmers and their family in the State of Maharashtra. The personal accident insurance policy continued to cover the family members with it's period commencing from 10.04.2005 and coming to an end on 09.04.2006. The petitioner's son met with an accident on 23.09.2005 and she forwarded her claim to the Insurance Company, which was rejected. The facts of the case would reveal that, the deceased Nitin, son of the petitioner, had purchased an agricultural land on 24.06.2005, and the Insurance Policy commenced its coverage from 10.01.2005 and thus on the date when the coverage in the policy commenced, he was not a farmer, was the submission. The claim of the petitioner was opposed on the ground that, Nitin was not covered under the policy as no premium was paid for him, as he was not a registered farmer on the date of commencement of the policy and he became a farmer by purchasing an agricultural land after the commencement of the Insurance Policy. In the backdrop of the aforesaid facts, the Division Bench of this Court held as under : -

> 26. Moreover, respondent no. 2 Tahsildar has pointed out through his affidavit in reply that deceased Nitin Mundhe had purchased land Gut No. 369 through registered sale deed dated 14.7.2005 and entry of the said transaction was taken by mutation entry no. 946 recorded by Talathi of concerned village on 15.7.2005 and same was approved by Circle Inspector on 14.8.2005. Hence, it is crystal clear that deceased Nitin Mundhe was recorded as farmer on 14.8.2005 before his death on 23.9.2005 and even from the said angle also the objection raised by respondent no.4 insurance company by the impugned communication dated 27.1.2006 bears no substance.
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> 27. Besides, it is to be borne in mind that as per the Government Resolution dated 5.1.2005 as well as minutes of the meeting dated 16.2.2006 that the said scheme is social welfare scheme and it is beneficial to the family members of the farmers who expire in accidental death and respondent no.4 insurance company should not have adopted the technical approach while granting the claims of the family members of the deceased farmer for compensation, but still respondent no.4 insurance company has adopted obstructive attitude and deprived the petitioner from the claim of compensation, although, as stated herein above, the petitioner completed the necessary formalities and submitted the claim along with the necessary documents. Hence present petition deserves to be allowed in terms of prayer clauses 'C' with modification regarding the interest and 'E' thereof. Since due to obstructive attitude of respondent no.4, the petitioner was required to approach to this court, the compensatory costs

> are required to be saddled upon respondent no.4 insurance company.
>
> 28. Hence, we are of the considered view that this is a fit case to exercise the extra ordinary jurisdiction under Article 226 of the Constitution of India and, therefore, present petition succeeds.

. Perusal of the aforesaid observations would disclose completely different situation, where the Division Bench by holding that the personal accident insurance policy being a social welfare scheme, which is beneficial to the family members of the farmer in the event, a Karta of a family meet with an accident, and therefore the mother Shakuntala was granted the benefit of compensation.

. The aforesaid decision is not of any succor to the present respondents/claimants

19. In the light of the discussion of the scheme and the policy of Insurance, which is an agreement between the concerned parties, the Insurance Company is perfectly justified in submitting that the member of the family of the farmer was not covered in the policy which was drawn on the basis of the Government Resolution dated 01.12.2018, which covered only an individual farmer and not a member of farmer's family. The policy contained in the subsequent resolution dated 31.08.2019 cannot extend the coverage of the insurance policy to a member, who was not a covered under the

policy of the insurance when he succumbed to an accident. The Government has expanded the scope of the Insurance Policy, in the wake of the need expressed and from 31.08.2019, it deemed it fit to include one member of family of the farmer and now the Insurance Policy, which is taken subsequent to the issuance of the Resolution dated 31.08.2019, will entitle the benefit to be extended to one another member of the family of an individual farmer, who is a land holder.

20. For the reasons recorded above, the writ petitions are allowed by setting aside the impugned Awards passed by the Permanent Lokadalat, which is based on incorrect interpretation of the policy of insurance drawn in favour of the claimants, which covered only the claimant/the individual farmer, whose name was recorded on the 7/12 record and did not cover another member of his family.

. Rule made absolute as aforesaid.

21. While notice was issued to the respondents on the petitions, the execution and operation of the impugned Award came to be stayed subject to the petitioner-insurance Company depositing an amount of Rs. 2.00 lakhs in each petition.

. In the wake of the petitions filed by the insurance company being allowed, the amount of Rs. 2.00 lakhs deposited in this Court, shall be remitted to the petitioner-Insurance Company in all the four writ petitions, within a period of two weeks from today.

[BHARATI H. DANGRE]
JUDGE