

Santosh

**IN THE HIGH COURT OF BOMBAY AT GOA
FIRST APPEAL NO. 50 OF 2016**

IFFCO TOKIO General Insurance
Co. Ltd., A/2,1st Floor, Reliance
House, Isidorio Baptista Road,
Pajifond, Pajifond, Margao-Goa
through its Authorized signatory,
Mr.Saurabh Singh.

.... Appellant.

Versus.

1. Smt. Chandrakala Sadanand
Kerkar, alias Vastal, W/o Late
Sadanand Kerkar, Aged 45 years,
Housewife, R/o H.No.527,
Metawado, Dharbandora, Sanguem-
Goa.

2. Miss Kavita Sadanand Kerkar, D/o
Late Sadanand Kerkar, Aged 22 years
of age, Student, R/o. H.No. 527,
Metawado, Dharbandora, Sanguem,
Goa.

3. Master Karpesh Sadanand
Kerkar, R/o H.No.527, Metawado,
Dharbandora, Sanguem-Goa. S/o
Late Sadanand Kerkar, Aged 20 years
of age, Student, R/o H.No.527,
Metawado, Dharbandora, Sanguem-
Goa.

4. Master Kapil Sadanand Kerkar, S/o Late Sadanand Kerkar, Aged 15 years, Student, R/o H.No.527, Metawado, Dharbandora, Sanguem-Goa. _ (The Respondent No.4 is minor, represented by his Mother, Smt. Chandrakala Kerkar as natural 7 Guardian).

5. Mr. Sagar Rohidas Parulekar, H.No.Tamswado, Near Darbandora Panachayat, Sancorda, Sanguem-Goa,

[6. Mr.Vishant Pandurang Parkar, -Appeal dismissed against R.6 in view of order dt. 17/10./2019.]

... Respondents.

Mr. Vaman Ganesh JKurtikar, Advocate for the Appellant.

Mr. Sanman Keny, Advocate for the Respondents.

CORAM : M. S. SONAK, J.

DATE : 18th August 2022

ORAL JUDGMENT :-

1. This is an appeal by the Insurance Company, challenging the judgment and award dated 16th February 2016.
2. Admittedly, in this case, the Appellant-Insurance Company

had not obtained any leave under Section 170 of the Motor Vehicles Act.

3. Therefore, considering the law down by the Division Bench of this Court in *I.C.I.C.I. Lombard General Insurance Co. Ltd., Amravati vs. Surekha wd/o. Prakash Ghurde and ors.*¹ this appeal will have to be dismissed as not maintainable.

4. Accordingly, this appeal is hereby dismissed. The Respondents-Claimants will now be entitled to withdraw the compensation amount deposited by the Appellant in this Court, together with interest that shall have accrued on this amount. Accordingly, leave is granted to the Respondents-Claimants to withdraw this amount, **after 6 weeks** from today unless, in the meanwhile, there is any restraint order on such withdrawal. The amounts that have already been withdrawn by the Respondents-Claimants will, naturally, have to be adjusted.

5. The Respondents-Claimants will have to furnish proper identification documents and bank details so that the Registry can transfer such amounts directly into their bank accounts after six weeks.

1. (2020) 2 Bom CR 465,

6. The appeal is disposed of in the above terms. There shall be no order for costs.

M. S. SONAK, J.