IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.237 OF 2000

1. Suresh R. Patil
Since deceased through his legal heirs :
A) Usha Suresh Patil,
Age: 52, Occupation : Household
B) Satyajit Suresh Patil
Age : 27 years, Occu : Agriculture
Both R/o. Kasaba Beed, Talukar Karveer,
District : Kolhapur
C) Shweta Sangram Kadam
Age: 30, Occupation Household,
R/o. Vadarage Road, Gadhinglaj
Taluka : Gadhinglaj, District Kolhapur ... Appellants (Original Opponents)

Versus

1. Jaising M. More
2. Sharada Jaising More
Both Adults, Residing at 2013, "A" Ward,
Rankala Towar, Kolhapur.
3. The United India Insurance Co. Ltd.
Having its Divisional Office at Station Road,
"E" Ward, Kolhapur ... Respondents (Original Applicants)

………..

Mr. Pradeep Dalvi a/w. Ms. Priya Dalvi, Advocate for the Appellants.
Mr. Jayant J. Bardeokar, Advocate for Respondent No.1.
Ms. Poonam Mital, Advocate for Respondent No.3- Insurance Company.

CORAM : SHIVKUMAR DIGE, J.
DATE : 18th DECEMBER, 2023

JUDGMENT :

1. The issue involved in this appeal is liability fixed on the appellants to pay compensation.

2. It is the contention of learned counsel for the appellants that appellant is the owner of offending vehicle. At the time of accident, the driver of offending vehicle was holding licence of light motor vehicle whereas he was driving transport vehicle. The Tribunal has observed that the driver was holding licence of LMV vehicle, so he cannot drive transport vehicle, on that basis the Tribunal has awarded compensation to the claimants and directed appellant to pay it and exonerated respondent Insurance Company with whom the offending vehicle was insured. Hence, requested to allow the appeal.

3. It is the contention of learned counsel for the respondent No.3-Insurance Company that while passing order the Tribunal has considered all the aspect on that basis order is passed. At the time of incident the driver of offending vehicle was not holding effective and valid driving licence. Moreover, the Insurance Company has examined one witness in support of their defence. Hence order passed by the Tribunal is legal and valid and no interference is required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Kolhapur (for short "**the Tribunal**"). The issue raised in this appeal is no more *res integra*, Hon'ble Apex Court in the case of ***Mukund Dewangan V/s. Oriental Insurance Company Limited***[1] has held that licence to drive a light

1 (2017) 14 SCC 663

motor vehicle need not have an endorsement to drive transport vehicle. At the time of accident the offending vehicle was insured with respondent No.3/Insurance Company hence, respondent No.3 / Insurance Company is liable to pay compensation as fixed by the Tribunal.

5. In view of above, I pass following Order:

ORDER

(i) The appeal is allowed.

(ii) Respondent No.3- Insurance Company shall pay compensation fixed by the Tribunal i.e. Rs.79,800/- to the claimants with 12% interest p.a. from the date of filing claim petition till realisation of amount.

(iii) Appellants are permitted to withdraw the deposited amount along with proportionate interest.

(iv) Appellants are permitted to withdraw deposited amount along with accrued interest thereon.

6. The appeal is disposed off.

(SHIVKUMAR DIGE, J.)

SONALI SATISH KILAJE Digitally signed by SONALI SATISH KILAJE Date: 2024.02.08 11:03:53 +0530