



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

CIVIL APPLICATION NO. 3164 OF 2023 IN FA/1014/2021

ANUSAYA BALASAHEB MAHAPUR AND OTHERS  
VERSUS  
SANTOSH MURLIDHAR SANAP AND OTHERS

...  
Advocate for Applicants : Mr. Shaikh Mazhar A. Jahagirdar  
Advocate for Respondent No.1 : Mr. Sachin S. Kotkar  
Advocate for Respondent No.2 : Mr. Sachin S. Patil  
...

**CORAM : S. G. MEHARE, J.**  
**DATE : 05-04-2024**

**PER COURT :-**

1. Heard the learned counsel for the applicants, the learned counsel for respondent No.1/insurer and learned counsel for respondent No.2/offending vehicle owner.
2. Learned counsel for respondent No.1/insurer submits that learned Tribunal had held that the cover note filed by insurer (Exhibit-40) and cover note filed by opponent No.1/owner of offending vehicle (Exhibit-51) shows that there was over writing on Exhibit-51 regarding the date of issuance and the date of issue of cover note as 01.01.2013 and the date of commencement of insurance is also showing overwriting mentioning 01.01.2013 to 31.12.2013. Thus, the cover note (Exhibit-51) filed by opponent No.1 is doubtful. It appears bogus. However, the learned Tribunal passed the order of “pay and recover the amount”.

3. Learned counsel for the insurer has apprehension of no recovery of compensation, it directed to be paid by him. Therefore, he prayed that certain conditions about security of the compensation be imposed upon owner of the offending vehicle.

4. Learned counsel for the respondent/owner of the offending vehicle submits that the issue of exonerating the insurer is pending before the Court. The owner of the vehicle is an agriculturist having sufficient land. In view of the clear cut findings of the learned Tribunal that the so-called cover note is forged, the prayer of the learned counsel for insurer may be considered. Hence, the following order;

ORDER

- i) The application is allowed.
- ii) The applicants are permitted to withdraw the amount as per apportionment ordered by the learned Member, Motor Accident Claim Tribunal, Newasa, on furnishing undertaking that they would deposit the amount within three months, if the impugned judgment and award is reversed.
- iii) Respondent No.1/owner of the offending vehicle should furnish an undertaking within three weeks from today, before this Court that he shall not alienate his agricultural fields to the extent of the amount of the insurance as deposited with this Court as on today, until further orders.

**( S. G. MEHARE )**  
**JUDGE**