



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1625 OF 2012
WITH
CIVIL APPLICATION NO. 10358 OF 2012
IN FA/1625/2012

United India Insurance Co. Ltd.
Through It's Divisional Office,
Divisional Manager, Osmanpura.
Aurangabad.

Appellant.
(orig Resp No.3.)

VERSUS

1. Rangubai w/o Dhanraj @ Dhananjay Jivane
age 37 years, Occ. Household,
R/o Deoni, Tq. Deoni, Dist. Latur.
2. Kum. Yadnika d/o Dhanraj @ Dhananjaya Jivane,
age 22 yrs, Occ. Household,
R/o Deoni, Tq. Deoni, Dist. Latur.
3. Kum. Priyanka d/o Dhanraj @ Dhananjay Jivane,
age 20 yrs, Occ. Houshold,
R/o Deoni, Tq. Deoni, Dist. Latur.
4. Nagesh s/o Dhanraj @ Dhananjay Jivane,
age 17 yrs, Occ. Household,
R/o Deoni, Tq. Deoni, Dist. Latur.

Claimant No.4 is minor,
U/g of Claimant No.1 i.e. mother and
summons be served through Natural
Guardian claimant no.1 Mother.

5. Kashinathappa s/o Shivlingappa Jivane,
age 65 yrs, Occ. Agriculture,
R/o Deoni, Dist. Latur.
6. Sow. Irammabai w/o Kashinathappa Jivane,
age 63 yrs, Occ. Household,
R/o Deoni, Tq. Deoni, Dist. Latur.

7. Subhash s/o Kishanrao Gadge,
age 50 yrs, Occ. Driver,
R/o Digol, Tq. Shirur Anantpal,
Dist. Latur. (driver of vehicle MH-26/E-4592)
8. Raju s/o Dagdubhau Sonkamble,
age major, Occ. Business,
R/o Vijaygad, Tq. Kandhar,
Dist. Nanded. (owner of vehicle MH-26/E-4592)
Respondents.

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Advocate for Appellant : Mr. S.V. Kulkarni
Advocate for Respondents 1-6 : Mr. S.V. Mundhe

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 18, 2024

ORAL JUDGMENT :-

1. The appellant/insurer impugns the judgment and Award passed by the Motor Accident Claims Tribunal, Latur in MACP no.13 of 2009 dated 7.4.2012.

2. Mr. S.V. Kulkarni, learned advocate appearing for the appellant submits that there is no factual dispute as regards to the accident and consequential death of the deceased-Dhanraj. He would submit that the appeal is filed on limited grounds that the driver of the insured vehicle was not holding valid and effective driving license as on the date of the accident. In support of his contentions, he relies upon the evidence of Mr. Sachin Kumar PW-1 at exh.54. He would submit that driving license placed at exhibit 57 issued by RTO

Latur in the name of driver was not valid as on the date of the accident.

3. Mr. Mundhe, learned advocate appearing for the respondents-claimants submits that the driving license of the driver is placed as exhibit-76, which is issued by Transport Authority at Beed and the same was valid as on the date of the accident. Therefore, the insurer would not have any defence in terms of section 149 (2) of the Motor Vehicles Act.

4. Having considered the rival submissions, it can be gathered that the claimants have produced driving license at Exh.76, which shows that respondent no.1-Driver was authorized to drive the vehicle in question. Said driving license is issued by the RTO Beed. This factual aspect is not disputed by the Appellant-Insurance Company. The only contention raised before this court is that residential address of the Respondent no.1 driver is at Latur. Therefore, driving license could have been obtained only from RTO Latur. In fact Such a driving license was obtained by the driver and the same was expired before date of accident. Therefore, subsequent license obtained from the RTO Beed is invalid.

5. Pertinently, the appellant insurer has not made any attempt to bring on record evidence from RTO Beed in support of their contentions. It is possible that interregnum driver had changed his residential address and obtained fresh license from Beed R.T.O. Once the competent authority has issued the license to Driver and same was found valid as on the date of accident, this Court need not go into other technical aspects

only on the basis of speculations of insurer, particularly, when no supporting material is brought before this Court.

6. In that view of the matter, there is no merit in the appeal. The appeal stands dismissed. Amount, if any, deposited by the appellant/insurer be disbursed to the claimants. Pending civil application, if any, also stands disposed off.

(S. G. CHAPALGAONKAR, J.)

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aaa (f)