

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3075 OF 2023
WITH
CIVIL APPLICATION NO. 348 OF 2022
IN FA/3075/2023

1. Kalpanabai Yogesh Patil,
Age – 30 years, Occu. Household,
R/o. Kasali, Tq. Jamner,
Dist. Jalgaon.
 2. Kailas Pundlik Patil,
Age – 55 years, Occu. Agri.,
 3. Pramilabai Kailas Patil,
Age – 50 years, Occ. Agri.,
Appellant Nos.2 & 3,
R/o. Sheri, Tq. Jamner,
Dist. Jalgaon.
- ...Appellants

Versus

1. Sanjay Manik Koli,
Age – 49 years, Occ. Driver,
R/o. Neri Bk. Tq. Jamner,
Dist. Jalgaon.
2. Rajaram Vithoba Patil (Deceased)
Through Legal Heirs
 - 2-A] Kokilabai Rajaram Patil,
Age – 65 years, Occ. Household,
 - 2-B] Kishor Rajaram Patil,
Age – 38 years, Occ. Agri,
 - 2-C] Rajashri Rajaram Patil,
Age – 43 years, Occ. Household/Service,
 - 2-D] Chhaya Rajaram Patil,
Age – 40 years, Occ. Service,
 - 2-E] Ku. Pratibha Rajaram Patil,

(2)

Age – 35 years, Occ. Household,
All R/o. Girna Colony, Jamner,
Tq. Jamner, Dist. Jalgaon.

3. United Insurance Company Ltd.
Jalgaon, Tq. & Dist. Jalgaon. ...Respondents

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Advocate for Appellants : Mr. Patil Vijay Y.
Advocate for Respondent No.3 : Mr. Mr. Ajit Kadethankar

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CORAM : S.G. MEHARE, J.

DATED : JANUARY 08, 2024

ORDER :-

1. Heard learned counsel for the appellants and learned counsel for contesting respondent no.3 finally by consent.
2. Respondent Nos.2A to 2E in civil application were served but they failed to appear.
3. The appellants were the claimants in motor accident claim petition. The Member, Motor Accident Claims Tribunal, Jalgaon awarded the compensation of Rs.5,23,600/- with interest @ 6% p.a. The present respondent no.3 was exonerated, however, pay and recover order was passed.
4. The grievance of the appellants was that the Member, Motor Accident Claims Tribunal, Jalgaon in the impugned judgment and award dated 29.04.2019 in Motor Accident Claim Petition No.412 of 2011 has exorbitantly imposed the condition to furnish the solvent surety before the compensation amount is to be released and

unnecessarily directed to keep the compensation amount in fixed deposit till its disbursement.

5. Learned counsel for respondent no.3 has strongly opposed the appeal contending that if the money is not secured by way of security, the insurance company will suffer a huge loss if the respondent nos.2A to 2E would not pay the amount deposited or paid.

6. It is an admitted fact that as per the award, respondent no.3 has deposited the compensation amount. The Motor Vehicles Act, 1988 is a beneficiary legislature. If such conditions are imposed then the very purpose of supporting the dependents of the person died in the vehicular accident may be frustrated. Apparently, a condition to furnish the solvent surety before disbursing the compensation amount to the appellants, is incorrectly imposed. There appears substance in the submission of the learned counsel for the appellants. No such unreasonable condition of furnishing the solvent surety could be imposed for disbursing the amount of compensation which the insurance company / respondent no.3 has deposited. Hence, the following order :

ORDER

- I) The first appeal is allowed.
- II) The condition imposed by the Member, Motor Accident Claims Tribunal, Jalgaon in judgment and award dated 29.04.2019 in

(4)

M.A.C.P. No.412 of 2011 for furnishing the solvent surety before disbursing the amount stands quashed and set aside.

III) Rest of the award is maintained.

IV) The insurance company need not file any independent recovery proceeding against the owners and shall continue with the Execution Proceeding No.412 of 2011 pending before the Motor Accident Claims Tribunal, Jalgaon.

V) The Executing Court is directed to release the compensation amount deposited with interest to the appellants/claimants forthwith equally as they agreed for.

VI) No order as to costs.

VII) Civil Application No.348 of 2022 stands disposed of.

(S.G. MEHARE, J.)