

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.14 OF 2008

Dattatraya Dnyandeo Patil Age : 54 years, Occ : Agriculture R/at : Aiwade Kh, Taluka-Walwa, District-Sangli.	} } } }	...Appellant (Org. Opp.No.3)
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Versus

1. Raghunath Maruti Choudule Age-54 years, Occ: Nil	} }	
2. Smt.Akkatai Maruti Chougule Age-68 years, Occ: Nil Both R/at Aiwade Kh. Taluka-Walwa, District-Sangli.	} } } }	(No.1 and 2 Org. Claimant)
3. Maharashtra State Transport Corporation Divisional Controller, Sangli.	} } }	(No.3 to 5 Org. Opponents)
4. B.S. Patil (Bus Driver) R/at. Natoli, Taluka-Shirala, District-Sangli.	} } }	
5. The New India Assurance Co. Ltd. Branch Station Road, Sangli	} }	...Respondents

Mr.Umesh Mankapure a/w Ms.Bhavika Shinde, for the Appellant.

Ms.P.M. Bhansali a/w Ms.Amruta Kandap, for Respondent No.3.

Mr.Devendranath S. Joshi i/b Mr.Indrajeet R. Kulkarni, for Respondent No.5.

CORAM : SHIVKUMAR DIGE, J.

DATE : 3rd MAY 2024

ORAL JUDGMENT :-

. The issue involved in this Appeal is exoneration of the Insurance Company.

2. It is contention of the learned counsel for the Appellant-Owner of the offending vehicle that at the time of the accident the motorcycle was insured with Respondent No.5- Insurance Company. The policy was package policy. The deceased was pillion rider, insurance was covered by the said policy, but the Tribunal has not considered this fact and directed the Appellant to pay the compensation, which is erroneous. Hence, requested to allow the Appeal.

3. The learned counsel for the Respondent No.5 submit's that the Tribunal has considered all the aspects while passing the judgment and order. No interference is required in it.

Hence, requested to dismiss the Appeal.

4. The learned counsel for Respondent Nos.3 and 5 submit's that appropriate order be passed.

5. I have heard all learned counsel's. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Islampur.

6. It is Claimant's case that on 22nd January 2023, the deceased Deepak and his friend Mohan were coming from Eaitwade to Islampur by his friend's motorcycle. Mohan was driving motorcycle slowly and carefully. At that time one bus was coming from opposite direction in rash and negligent manner. The said bus gave dash to the motorcycle of the deceased. Due to dash deceased died on the spot. The offence was registered against the rider of the motorcycle.

7. While awarding compensation the Tribunal has observed that accident occurred due to negligence of the rider of the motorcycle. Hence, the Tribunal has exonerated the Insurance Company of motorcycle from paying compensation. I am unable to understand the observations of the Tribunal, as,

admittedly deceased was pillion rider and his insurance was covered by Insurance Policy. Hence, Insurance Company is liable to pay the compensation, but this fact is not considered by the Tribunal. Hence, I pass following order.

ORDER

- (i) The Appeal is allowed.
- (ii) The Respondent No.5-Insurance Company shall pay the compensation as fixed by the Tribunal along with accrued interest thereon.
- (iii) The Respondent No-5-Insurance Company shall deposit the compensation amount along with interest within six weeks after receipt of the order.
- (iv) The Claimant's are permitted to withdraw deposited amount along with accrued interest.
- (v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)