

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
FIRST APPEAL NO. 2895 OF 2007

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The Regional Manager United India Insurance Co.Ltd. R.O.2, Maker Bhavan-I, 3rd floor, V. T. Marg Mumbai 400020

....Appellant
(Org. Opponent
No. 3)

Versus

1. Kum. Renuka Ravindra Khiste
Age-10 years, Occ-Education
Minor through Natural guardian Mother, Applicant
No. 2

2. Asawani Ravindra Khiste,
Age 37 years, Occ-Household

3. Leela Arvind Khiste,
Age- 63 years, Occ-Household

Respondent No.
1 (Org
Complainant)

All above r/at S. No. 74, plot No. 9, Ganeshnager,
Yele Wasti, Pandharpur

4. Udhav Pandharinath Bangal
Age 50 years, Occ-Contractor,
R/o. Gadegeon, Tal. Pandharpur.

5. Suresh R. Shelke,
Age-Adult, Occ-Business, R/o. G-14, Hardwar,
Evershine Nagar, Malad (W), Mumbai- 64.

Respondent No.
2 (Org
Opponent No.
1)

6. Gani and son's Liberty complex,
Section No. 17, Navi-Mumbai

Respondent No.
3 (Org
Opponent No.
3)
... Respondents.

Smt. Urmila K. Sanil, Advocate for the Appellant.
Mr. Samir A. Kumbhakoni, Advocate for the Respondent Nos. 1 & 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th FEBRUARY, 2024.

ORAL JUDGMENT. :

1. The issue involved in this appeal is non joinder of necessary parties.

2. It is contention of learned Counsel for the Appellant/Insurance company that the deceased was traveling in Tata-safari and driver of said jeep gave dash to the Tractor, which was parked along side of the road, due to said dash the deceased died. The Claimants have not added owner and driver of the tractor as party Respondent, but this fact is not considered by the Tribunal. Hence, requested to allow the Appeal.

3. It is contention of learned Counsel for Respondents/Claimants that the deceased was driving the Tata-safari jeep. The deceased was occupant in the Tata-safari jeep, the accident occurred due to rash and negligent driving of the driver of Tata-safari. It is settled principal of law that the deceased can claim compensation from any of tortfeasor's, hence, requested to dismiss the Appeal.

4. I have heard both learned Counsels, perused the Judgment and order passed by the Motor Accident Claims Tribunal, Pandharpur, (for short “the Tribunal”).
5. The Appellant-Insurance Company has not raised the issue of non joining of owner, driver and Insurance Company of trailor as party defendant before the Tribunal. Moreover, it is settled principal of law that the Claimants can claim compensation from any of the tort feasor’s admittedly the deceased was the occupant of Tata-safari and the Insurance Policy covers the Insurance for occupant of the Tata-safari.
6. In view of above, the Appeal is devoid of merits and I pass following Order.

ORDER

- a) The appeal is dismissed. No Order as to costs.
- b) The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
- c) The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

7. All pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)