IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 325 OF 2020

1. Sangeeta Santosh Dhotre Age : 24 years, Occ : Household 2. Neha Santosh Dhotre Age : 9 years, Occ : Education Minor through guardian i.e. Appellant No.1 herein 3. Khushi Santosh Dhotre Age : 7 years, Occ : Education Minor through guardian i.e. Appellant No.1 herein 4. Usha Anant Dhotre Age : 56 years, Occ : Nil 5. Anant Dnynoba Dhotre Age : 61 years, Occ : Nil, All r/o. Salshinge Road, Metkari Vasti, Tal. Khanapur, District : Sangli	Appellants

Versus

1. Sachin Balasaheb Nikam Age : 34 years, Occ : Agriculturist R/o. Near Vitthal Mandir, Magewadi, Tal. Khanapur, District : Sangli 2. ICICI General Insurance Co. Ltd. Near ICICI Bank, Begal Chowk, Kolhapur	Respondents

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Mr. Kuldeep U. Nikam, Advocate for the Appellants.
Mr. Rajesh Kanojia a/w. Ms. Deepika PRabhula, Advocate for Respondent No.2.

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CORAM : SHIVKUMAR DIGE, J.
DATE : 23rd JANUARY, 2024.

JUDGMENT :

1. The issue involved in this appeal is exoneration of Insurance Company.

This order is corrected/modified as per speaking to minutes of order dated 10.05.2024

2. It is contention of learned counsel for the appellants that at the time of accident the driver of offending vehicle was not holding effective and valid driving licence. There was breach of terms and conditions of the insurance policy. The Tribunal should have directed the Insurance Company to pay the compensation and recover it from owner of offending vehicle but instated of that the Tribunal has exonerated the Insurance Company which is not proper, hence requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.2 / Insurance Company that while passing the order the Tribunal has considered all the aspects and on that basis order is passed and no interference is required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Sangli (For short "**the Tribunal**"). It is contention of learned counsel for the appellant that there was breach of terms and conditions of the insurance policy. The Tribunal should have passed pay and recover order. In my view, it is settled principle of law that if driver of offending vehicle was not holding effective and valid driving licence at the time of accident and there was breach of terms and conditions of insurance policy, the Insurance Company is liable to pay the compensation amount to the claimants and recover it from the owner of the vehicle but the Tribunal has not considered this fact and has exonerated Insurance Company which is erroneous and I pass following Order:

ORDER

(i) The Appeal is allowed.

(ii) The Respondent No.2-Insurance Company shall deposit the compensation amount along with accrued interest thereon as fixed by the Tribunal within six weeks after receipt of this order.

(iii) The Claimants are permitted to withdraw deposited amount along with accrued interest thereon.

(iv) The Respondent No.2-Insurance Company is at liberty to recover deposited amount along with accrued interest thereon from owner of the vehicle i.e. Respondent no.1.

(v) All pending Applications are disposed of.

5. The appeal is disposed of.

(SHIVKUMAR DIGE, J.)

This order is corrected/modified as per speaking to minutes of order dated 10.05.2024