

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****FIRST APPEAL NO. 1416 OF 2008**

New India Assurance Co. Ltd.

Neel Kamal, 5, Shahu College Road, Pune-411 009 ... Appellant

Versus

1. Romila Vishindas Darira

Age 47 yrs. Occ. Teacher

R/at 12/238, Mira Society, Shankarsheth Road,
Pune – 411 037

2. Hussain Abubakar Pansare

Age 30 years, Occ – Business

R/at. Post Jejuri, Near S.T. Stand,
Tal. Purandar, Dist. Pune

... Respondents

WITH

FIRST APPEAL NO. 1200 OF 2013

New India Assurance Co. Ltd.

Neel Kamal, 5, Shahu College Road, Pune-411 009

Through Mumbai Regional Office-I,

New India Bhavan, 2nd Floor, 34/38, Bank Street,

Fort, Mumbai – 400023

... Appellant

Versus

1. Reema @ Nita Kishore Khemani

Age 40 years, Occ : Household

A-2, Flat 102, Silver Oak Building,

Floriana Estate, Kalyani Nagar, Pune-411014

2. Hussain Abubakar Pansare

Age about 30 years, Occ : Business,

Post Jejuri, Near S.T. Stand,

Tal. Purandar, Dist. Pune

... Respondents

**WITH
FIRST APPEAL NO. 1417 OF 2008**

New India Assurance Co. Ltd. Appellant
Neel Kamal, 5, Shahu College Road, Pune-411 009 ...

Versus

1. Renu Kishanchan Sakhrani
Age 66 yrs, Occ. Housewife
R/at. 12, Cozy Corner, 216, Boat Club Road,
Pune – 411 001
(Amendment carried out as per order dated
25.3.22 Coram: S. K. Shinde, J.)
- 1(A) Deepak K. Sakhrani
Son of deceased Age 53 yrs. Occ. Service
Residing at Flat No.12, Cozy Corner Apts
216, Boat Club Road, Pune – 411 001
- 1(B) Bindiya (Pooja) Mahtani
Daughter of deceased, Age 49 years
Occ : Housewife, 302, Shree Girdhar
Apartments, Mangaldas Road, Opp Hotel
Conrad, Pune 411 001
2. Hussain Abubakar Pansare
Age 30 years, Occ : Business,
R/at Post Jejuri, Near S.T. Stand,
Tal. Purandar, Dist. Pune ... Respondents

**WITH
FIRST APPEAL NO. 1418 OF 2008**

New India Assurance Co. Ltd. ... Appellant
Neel Kamal, 5, Shahu College Road, Pune-411 009

Versus

1. Renu Kishanchand Sakhrani
Age 66 yrs, Occ. Housewife
R/at. 12, Cozy Corner, 216, Boat Club Road,
Pune – 411 001
2. Hussain Abubakar Pansare
Age 30 years, Occ : Business,
R/at Post Jejuri, Near S.T. Stand,
Tal. Purandar, Dist. Pune ... Respondent

.....
Ms. Poonam Mital, Advocate for the Appellant in FA/1416/2008, FA/1417/2008, FA/1418/2008.

Mr. D.S.Joshi, Advocate for Appellant in FA/1200/2013.

Mr. Abhishek Pungliya, Advocate for Respondents/claimants in all Appeals.

.....

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JANUARY, 2024.

JUDGMENT :

1. The appellant / Insurance Company has preferred these four appeals against the Judgment and Order passed by the Motor Accident Claims Tribunal, Pune (for short “**the Tribunal**”). The issues involved in all these appeals are same, hence I am deciding it by this common judgment.

2. It is the contention of learned counsel for the appellant that the offending vehicle was hired by the claimant. The claimant - Alka Rani in Appeal No. 1417 of 2008 had stated before the police that the offending vehicle was hired. There was breach of terms and conditions of insurance policy but this fact is not considered by the Tribunal and has passed the impugned order. Learned counsel further submits that claimant -Alka Rani admits her signature on the police statement. She has not denied that the said statement was not recorded by the police. Hence, requested to allow the appeal.

3. It is the contention of learned counsel for the respondents/claimants that the claimant - Alka Rani examined herself before the Tribunal. In her

evidence she has stated that she has not stated before the police that the offending vehicle was hired by the claimants. The Tribunal has considered evidence produced on record and on that basis Judgment and Award is passed which is legal and valid and no interference is required in it.

4. I have heard all the learned Advocates. Perused the Judgment and Order passed by the Tribunal.

5. While dealing with the issue whether the offending vehicle was hired or not, the Tribunal has observed that “opponent No.2 has not elicited materials from the mouth of witness Alka Rani, that one Khemani had hired this Toyoto car and paid hired charges to the owner of the said vehicle”. Therefore, considering this fact, the Tribunal has fixed the liability and pass the impugned order. I do not find infirmity in it.

6. In my view, in her evidence Alka Rani has stated that police did not record her statement after the accident. In cross examination she has denied the suggestion that all the claimants had hired Toyota car for proceeding towards the Mumbai. The appellant could have examined the Investigating Officer to prove the statement given by Alka Rani in support of their defence but it was not done. Hence, I do not see merit in the contention that the offending vehicle was hired. In view of the above, I pass following order:

ORDER

- (i) All the appeals are dismissed.
- (ii) The claimants in all appeals are permitted to withdraw the amount deposited by the appellant/Insurance Company along with accrued interest thereon.
- (iii) Statutory amounts along with accrued interests in all appeals be transmitted to the Tribunal. The parties are at liberty to withdraw it as per Rule.

7. All the appeals are disposed of.

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2024.01.23
17:51:43 +0530