IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1221 OF 2015

	The New India Assurance Co. Ltd. Having it's Regional Office at Sharda Centre, Off Karve Road, Erandwane, Pune 411 004.	...Appellant
	versus	
1	Swati Vishwanath Tilekar Age : 25 years, Occ. Household	
2	Vaishnavi Vishwanath Tilekar, Age 1 ½ years, Occ. Nil, (Minor through her natural guardian her mother i.e. Applicant No.1)	
3	Mr. Trimbak Shankar Tilekar, Age 62 years, Occ. Nil (for himself and also as an heir of Respondent No.4)	
4	~~Mrs. Shakuntala Trimbak Tilekar,~~ ~~Age 55 years, Occ: Nil,~~ ~~All R/at P.O.Dive, Taluka Purandar,~~ ~~District Pune.~~ (Amended pursuant to order of Registrar Judicial (II) dated 7th October 2019.	
5	Suresh Bhickchand Dakle, R/at Tupewasti, Post Urulikanchan, Taluka Haveli, Pune.	...Respondents

Mr. Shrikant M. Dange, Advocate for the Appellant.
Mr. Santaram Tarale, Advocate for Respondents/claimants.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th FEBRUARY, 2024.

SHUBHADA SHANKAR KADAM

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Oral Judgment :

1. The issue involved in this appeal is pay and recover order.

2. It is contention of learned counsel for the appellant- Insurance Company that at the time of the accident, the driver of the offending vehicle was not holding effective and valid driving license, there was breach of terms and condition of the insurance policy but the Tribunal has directed the appellant – Insurance Company to pay compensation and recover it from the owner of the offending vehicle which is erroneous. Learned counsel further submitted that as there was breach of terms and condition of the insurance policy, the Tribunal should have exonerated the Insurance Company from paying compensation. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondents/claimants that the Tribunal has considered all the aspects while passing the judgment and order, no interference is required in it.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal , Pune, (for short “the Tribunal”).

5. Admittedly, at the time of accident, the driver of the offending vehicle was not holding effective and valid driving license. The Tribunal has held that there is breach of insurance policy, hence, the Tribunal has directed the Insurance Company to satisfy the decree at the first instance

and recover the said amount from the owner of the offending vehicle. I do not find infirmity in it. In my view, it is settled principle of law that if there is breach of terms and conditions, the Insurance Company has to satisfy the award and recover it from the owner of the offending vehicle.

6. In view of above, I pass the following order :

O R D E R

1. The appeal is dismissed. No order as to cost.
2. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
3. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
4. The appellant-Insurance company is at liberty to recover the compensation amount as fixed by the Tribunal.

7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)