

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

**FIRST APPEAL NO. 548 OF 2020**

|                                                                                                                          |                     |
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| <b>IFFCO-TOKIO Gen. Insurance Co. Ltd.</b> }<br>G-1, G-2, Jaju Arcade, Near Damini Hotel, }<br>Tarabai Park, Kolhapur. } | <b>...Appellant</b> |
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*Versus*

NILAM  
 SANTOSH  
 KAMBLE

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| <b>1. Shantabai Bandu Shinde</b><br>Age-62 years, Occ : Household<br>R/o. Gargoti, Mhasave Road, Taluka-<br>Bhudargad, District-Kolhapur.                       | } (F.A. Stand<br>} dismissed against<br>} R. No.1.)<br>} (Org. Applicant)<br>} |
| <b>1a. Shivaji Bandu Shinde (Son)</b><br>Age-62 years, Occ : Agriculture<br>R/o. Mhasave Road, Shinde Chowk,<br>Gargoti, District-Kolhapur-416209               | }<br>}<br>}<br>}<br>}                                                          |
| <b>1b. Tanaji Bandu Shinde (Son)</b><br>Age-52, Occ : Agriculture<br>R/o. Mhasave Road, Shinde Chowk,<br>Gargoti, District-Kolhapur-416209                      | }<br>}<br>}<br>}<br>}                                                          |
| <b>1c. Mangal Sudhaar Mohite (Married daughter)</b><br>Age-55 years, Occ : Housewife<br>R/at R/SSN 2279 World Balhim Galli,<br>Kasaba Bawade, Kolhapur-416 006. | }<br>}<br>}<br>}<br>}                                                          |
| <b>2. Anil Dattatraya Jarag</b><br>Age-45 years, Occ : Household,<br>R/o. Mhasve, Taluka-Bhudargad<br>District-Kolhapur.                                        | }<br>}<br>}                                                                    |

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| <b>3. The Oriental Insurance Co. Ltd</b> | <b>}</b> | <b>(Org. Opp. Party</b> |
| Div. Off. 204-E, Kanchanganga, Opp.      | <b>}</b> | <b>No.2)</b>            |
| Panchshil Hotel, Kolhapur.               | <b>}</b> | <b>...Respondents</b>   |

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Mr.Rajesh Kanojia i/b Res Juris, for the Appellant.  
Mr.Jayant J. Bardeskar, for Respondent No.1.

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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 22<sup>nd</sup> APRIL 2024**

**ORAL JUDGMENT :-**

. The issues involved in this Appeal are non-involvement of the vehicle and Power of Attorney cannot file Claim Petition.

2. It is contention of the learned counsel for the Appellant that, Power of Attorney has filed Claim Petition, but this fact is not considered by the Tribunal. The learned counsel further submitted that the offending vehicle was not involved in the accident, but this fact is not considered by the Tribunal. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, the Insurance Company has not filed written statement before the Tribunal. The ex-party order is

passed against the Appellant. The Appellant cannot raise any ground before this Court. Hence requested to dismiss the Appeal.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Kolhapur.

5. The matter is proceeded ex-parte against the Appellant-Insurance Company. No written statement was filed by the Appellant-Insurance Company raising grounds which are raised before this Court, as Appellant-Insurance Company did not contest the matter before the Tribunal. They cannot raise the grounds before this Court. Moreover, the compensation amount is Rs.2,05,000/-. The Appeal is devoid of merit and I pass following order.

### **ORDER**

- (i) The Appeal is dismissed.
- (ii) The Claimants are permitted to withdraw the amount deposited by the Appellant along with accrued interest thereon, if not withdrawn.
- (iii) The statutory amount alongwith interest be

transferred to the Tribunal. Parties are at liberty to withdraw it, as per Rules.

(iv) All pending Civil and Interim Applications are disposed of.

**(SHIVKUMAR DIGE, J.)**