

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

FIRST APPEAL NO. 923 OF 2022

Reliance General Insurance Co. Ltd.)
 Having its Office at Heritage House)
 Ground Floor, 6 Ramabai Ambedkar)
 Road, Tadiwala Road, Near Hotel)
 Panchratna and Gandhi Bhavan)
 Pune – 411 001)
 (Insurer Bolero Car Bearing)
 Registration No. MH-12-NP-3338)
 Policy No. 1701262311018023)
 Valid from 04.11.2016 to 03.11.2017)

....Appellant

Versus

1. Smt. Shaily Nishit Tiwari)
 Age: 35 years, Occu: Housewife)

 2. Master Kavya Tiwari)
 Age- 06, Occu- Student)

 Applicant No.1 for herself and on)
 behalf of minor Applicant No.2 as a)
 Natural Guardian Mother)

 3. Mrs. Alok Tiwari)
 Age: 65 years, Occu-Nil)

 4. Mr. Laxminarayan Tiwari)
 Age – 75 years, Occu- Nil)

 All R/at Flat No. C-601, 6th floor)
 Sunrise Apartment, Papde Wasti)
 Phursungi, Pune-412308)

....Orig. Applicants

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5. Mr. vinayak Mahesh Tribhuvane)
 Age: 24 years, Occu- Electrician)
 R/at A2/401, Namdev Rukhari Baug)
 Saswad Road, Bhekrai Nagar,)
 Phursungi Behind H.P. Petrol Pump)
 Pune 412308)

(Driver Bolero Car bearing)
 Registration No. MH-12-NP-3338)

6. Mrs. Savita Arun Tilekar)
 Age: Adult, Occu- Not Known)
 R/at Hissa No. 409/215, Trimurti Nagar)
 Pune Saswad Road, Phursungi)
 Pune:- 412308)

(Owner of Bolero Car bearing)
 Registration No. MH-12-NP-3338)

....Respondents
 (Res. Nos. 1 to 4 are Org.
 Applicant & Res. No.5
 and 6
 are Orig. Opp. Party.)

 Ms. Shalini Shankar, Advocate for the Appellant.
 Mr. Nikhilesh Pote a/w Tanmay Jadhav, Advocate for the Respondent
 Nos. 1 to 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 2nd FEBRUARY, 2024.

Oral Judgment. :

1. The issue involved in this appeal is, at the time of
 accident, driver of offending vehicle was holding learner's

licence.

2. It is contention of learned counsel for Appellant/Insurance Company that at the time of accident, the driver of offending vehicle was holding learner's licence but, this fact is not considered by the Tribunal . Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent that it has come in the evidence that though, deceased was holding learner's licence a "L" board was affixed in the car, which deceased was driving and the person having permanent licence had seated beside the deceased. The Tribunal has passed appropriate order. Hence requested to reject the Appeal.

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

5. While dealing with the issue of learner's licence, the Tribunal has observed that driver of offending vehicle was deceased, who was holding learner's licence and his friend Sanket Sawant who

was holding permanent driving licence was sitting beside him. Moreover “L” board was affixed in the offending vehicle. On that ground, the Tribunal has held that Insurance Company is liable to pay compensation. I do not find infirmity in it. As per view of the Hon’ble Apex Court in the case of *National Insurance Company Limited vs. Swaran Singh 2004 AIR (SC) 1531* the person holding learner’s licence cannot be termed as inexperienced.

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

ORDER

- i. Appeal is dismissed. No order as to costs.
 - ii. The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - iii. 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 of.

(SHIVKUMAR DIGE, J.)