

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1335 OF 2010

	National Insurance Co. Ltd. A/p. Cosmos Commercial Complex 205, E Ward, 2 nd Floor, New Shahupuri, Kolhapur.	))))	Appellant
	Versus		
1	Shri Vijay Daulat Patil Age : 28, Occu : Driver R/o. Shirgaon, Taluka Radhanagari, Dist : Kolhapur	))))	
2	Shri Ganpati Dinkar Chougale Age : Major, Occu : Tempo Owner R/o. Rashiwade, Tal. Radhanagari Dist : Kolhapur	))))	
3	Shri Pandurang Krushna Lad Age : Major, Occu : Service, R/o. Rashiwade, Tal. Radhanagari Dist : Kolhapur	))))	Respondents

Mr. Sandesh Deshpande, Advocate for the Appellant.

Mr. J. J. Bardeshkar, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd JANUARY, 2024.

Oral Judgment :

1. The issue involved in this appeal is there was contributory negligence of the claimant in the said accident.

2. It is contention of learned counsel for the appellant – Insurance Company that there was head on collision between two vehicles i.e. tempo and jeep. The claimant was driving the jeep but the

Tribunal has not considered this fact. Learned counsel further submitted that in other two claim petitions, out of the same accident, the Tribunal has held that the accident occurred due to contributory negligence of the claimant herein but, in this appeal, whole responsibility is fixed on the driver of the tempo, which is not proper. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.1/claimant that an offence was registered against the driver of the offending tempo. The Tribunal has considered all the aspects while passing the order. Hence, no interference is required in it.

4 I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Kolhapur (for short "the Tribunal"). While dealing with the issue of negligence, the Tribunal has observed that FIR was registered against the driver of the offending tempo. The spot panchanama at Exhibit-31 shows that the driver of the tempo went on the wrong side and was in high speed. On that ground, the Tribunal has held that the accident occurred due to sole negligence of the driver of the tempo. I do not find infirmity in it as the police papers support the claimant's case that accident occurred due to negligence of the driver of the tempo. Though in other two claim petitions, the Tribunal has held there was contributory negligence of the driver of the jeep but those matters are not before this Court. The Tribunal has passed a reasoned order. No interference is required in it.

5. In view of above, I pass following order:

O R D E R

1. The appeal is dismissed. No order as to cost.
 2. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - 3 The statutory amount be transferred to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
6. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)