

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

FIRST APPEAL NO. 632 OF 2023

Oriental Insurance Co. Ltd. } Thane Divisional Office having its } Divisional Office at Saraswati Building, } 3 rd Floor, Station Road, Thane (W), } Thr. Claims Hub MRO 2 } SBI Building Annexe, 3 rd Floor, Bank } Street, Fort, Mumbai-400 023. }	Appellant
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V/s.

**NILAM
SANTOSH
KAMBLE**

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NILAM SANTOSH
KAMBLE
Date: 2024.01.20
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1. Smt.Shardadevi Vinaykumar Singh } Age-26 years, Occ: Housewife } 2. Rahulkumar Vinaykumar Singh } Age-16 years, Occ: Student } 3. Laxmikumari Vinaykumar Singh } Age-13 years, Occ : Student } 4. Radhika Kuwar Ramswarup Singh } Age-68 years, Occ: Household } (Appellant Nos.2 and 3 are minor } through their Next friend Appellant No.1 } mother and Natural Guardian) R/at Sai } Chaya Building, Room No.7, Sector-14, } Kamothe Village, Navi Mumbai. } 5. Swastik Engineers Pvt. Ltd. } R/at W-395, MIDC, Rabade, Opp. Thane } Belapur Road, Navi Mumbai-400 701 }	Respondents
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Ms.S.S. Dwivedi, for the Appellant.
Ms.Rina Kund, for Respondent Nos.1 to 4.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th JANUARY 2024

P.C:-

. The issue involved in this Appeal is the colour of offending vehicle is different from the colour mentioned in the FIR.

2. It is contention of the learned counsel for the Appellant that, the offending vehicle was not involved in the accident. The learned counsel further submits that, as per police paper the offending car described as maroon color Honda City Car bearing registration No. MH-43-N-5571. It is contended by the Insurance Company that, the color of car was silver. But his fact is not considered by the Tribunal and has passed impugned order, which is not proper. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondents-Claimants while passing the order Tribunal has considered all the aspects. Hence no interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ("The

Tribunal' for short), Thane.

5. While dealing with this issue of color of car the Tribunal has observed in paragraph No.13 that the registration number of offending car is not disputed by the Appellant-Insurance Company and no witness was examined by the Appellant-Insurance company to prove the color of car. I do not find infirmity in it. In my view, FIR was lodged against the driver of the offending car it was not disputed by the driver and owner of the said car. Mere difference in the color of car cannot be a ground to dispute the involvement of the car in the said accident.

6. In view of above I pass following order.

ORDER

- (i) The Appeal is dismissed. No order as to cost.
- (ii) The Claimant's are permitted to withdraw deposited amount along with accrued interest thereon.
- (iii) The statutory amount be transmitted to the Tribunal. Parties are at liberty to withdraw it.
- (iv) All pending Civil/Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)