



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 147 OF 2024

**ICICI LOMBARD GENERAL INSURANCE CO LTD THROUGH
ITS MANAGER MANAGER**

VERSUS

JHUMA RAY VIJAY RAY AND OTHERS

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Mr. M. R. Deshmukh, Advocate for Appellant

Mr. M. D. Shinde, Advocate for Respondent Nos.1 to 4

Mr.Dinesh Manwatkar h/f Mr.S.S. Randive Advocate for
Respondent No.5

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WITH

CIVIL APPLICATION NO. 1383 OF 2024 IN FA/147/2024

WITH

CIVIL APPLICATION NO. 14427 OF 2023 IN FA/147/2024

CORAM : S. G. CHAPALGAONKAR, J.

Dated : 05th FEBRUARY, 2025

PER COURT :-

1. Heard Mr. Deshmukh, learned Advocate appearing for the appellant and Mr.M. D. Shinde, learned Advocate for the respondents/claimants.

2. Mr.Deshmukh submits that deceased was employed on the insured truck. However, he was murdered at some distance from the vehicle and there is no nexus between cause of death and employment of the deceased. He would

endeavour to impress upon Court that unless there is causal connection between use of the vehicle and murder of the deceased, liability of the employer and consequently insurer would not arise under the statutory policy issued in compliance with provisions of Section 147 of Motor Vehicles Act. Therefore, he press into service following substantial questions of law :-

- i) Whether in a statutory Motor Policy particularly without acceptance of extended liability of driver under Employees Compensation Act, 1923, can insurer be made liable to reimburse employer against his liability towards murder of driver?
- ii) Whether, in case of murder of employed driver during course of employment but unconcern with use of vehicle insurer has any liability to indemnify owner of vehicle under motor policy issued as per Section 147 of Motor Vehicles Act?
- iii) Whether murder of driver in facts of case can be termed as motor accident to impose liability on insurer of vehicle under Workmens Compensation Act?

3. In light of the aforesaid questions of law, he submits that appeal be admitted. However, Mr. Shinde, learned

Advocate appearing for the respondents/claimants urges to decide appeal at admission stage and shown his willingness to argue matter finally on aforesaid questions of law.

4. Hence, by consent, stand over to 05.03.2025.

IN CIVIL APPLICATION NO. 1383 OF 2024

1. Heard, Mr. M. D. Shinde, learned Advocate appearing for the applicants and Mr. Deshmukh learned Advocate appearing for the respondents. The applicants are original claimants in W.C.F.A. No.10 of 2019 decided on 11.08.2023 by Ex-Officio Commissioner of Employees Compensation and Civil Judge, Senior Division, Parbhani. The Commissioner passed an award for Rs.14,77,950/- in favour of the claimant. The appellant/insurer has deposited total amount of Rs. 22,31,532/- with the office of Commissioner. The applicants are seeking permission to withdraw the same.

2. Mr.Deshmukh, learned Advocate appearing for respondent/insurance company submits that deceased was murdered while he was employed on the truck. However, there is no causal connection between his employment of truck and murder. As such liability of insurer would not arise under

statutory scheme of Motor Vehicles Act.

3. Learned Commissioner considered aforesaid objection of the insurer and relying upon judgment of this Court in case of **State Of Maharashtra vs Aarti reported in 2008 ACJ 1406** observed that term murder is also accident, consequently, passed an award.

4. In that view of the matter, when an award is presently in favour of the applicants, certainly they are entitled for partial withdrawal of the amount. At the same time, interest of the appellant/insurance company needs to be protected. Even amount falling to share of the minor claimants will have to be kept in fixed deposit. Hence, following order:

ORDER

- i. The application is partly allowed.
- ii. The applicants/original claimants are permitted to withdraw amount of Rs.8,00,000/- (Eight lakh rupees only) along with allured interest out of the amount deposited with the Commissioner.
- iii. Balance of the amount be invested in fixed deposit with nationalised bank till disposal of the appeal.
- iv. Before releasing the amount, claimants No.1 to 4

should file an undertaking to Commissioner for Employees Compensation that they shall re-deposit amount within a period of eight weeks in case, adverse order is passed in appeal, dis-entitling them to receive compensation amount.

v. Civil Application stands disposed of.

(S. G. CHAPALGAONKAR, J.)

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