

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

FIRST APPEAL NO. 1155 OF 2003

Dattatraya Pandurang Mane & Anr. V/s. Bhagwan Gunda Shinde And Anr.	Appellants Respondent
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WITH

FIRST APPEAL NO. 1156 OF 2003

Dattatraya Pandurang Mane & Anr. V/s. Agnu Laxman Ingawale and Ors.	Appellants Respondent
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WITH

FIRST APPEAL NO. 1096 OF 2003

Dattatraya Pandurang Mane & Anr. V/s. Mr. Mohan Bhagwan Shinde and Anr.	Appellants Respondent
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WITH

FIRST APPEAL NO. 1097 OF 2003

Dattatraya Pandurang Mane & Anr. V/s. Mrs. Housabai Bhagwan Shinde and Anr.	Appellants Respondents
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Mr. Sharad Bhosale i/b Dilip Bodake, Advocate, for the Appellants.
Mr. Mohan Chavan i/b R. V. Bansode, Advocate for the Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

Date : 23 JUNE, 2025.

ORAL JUDGMENT :

1) Heard the learned counsel for the Appellants and learned counsel for Respondent No.1.

2) All these four Appeals are preferred against the same Judgment and order. Hence, I am deciding it by this common Judgment.

3) It is contention of the learned counsel for the Appellant / owner of the offending tempo, that the Respondents – Claimants were travelling along with their goods in the offending tempo. So, they are covered under the Insurance Policy. But, the Tribunal has not considered this fact and has fixed liability on the Appellant, which is erroneous. Hence, requested to allow the Appeals.

4) It is contention of the learned counsel for the Insurance Company that, the Insurance Policy was only for six employees other than driver. But, at the time of accident, nearly 30 passengers were travelling in the said tempo, which shows the breach of Insurance Policy. The Tribunal has passed well-reasoned order, no interference is required and requested to dismiss the Appeals.

5) The learned counsel for Respondent No.1 submits that the Tribunal has passed well-reasoned order, no interference is required and requested to dismiss the Appeals.

6) I have heard all the learned counsels Perused the Judgment and order passed by the Motor Accident Claims Tribunal, Sangli (for short, “the “Tribunal”).

7) While dealing with the issue of breach of terms and condition of the Insurance Policy, the Tribunal has observed that at the time of accident, nearly 30 passengers were traveling in the offending tempo. Investigating Officer-D.D. Mandale deposed that the driver was charge sheeted for carrying passengers. Ld. Tribunal further observed that the insurance cover note is at Exhibit – 95. The policy does not cover use of vehicle for carrying passengers except employees other than the driver, not exceeding 6 in number. The learned Tribunal further observed that the P.W.2, N.P. Patil, Clerk in Regional Transport Office has stated that at the time of accident, the offending vehicle was permitted to carry goods only. Considering the evidence on record, the Tribunal has absolved Insurance Company and has fixed liability of paying compensation on the Appellant being the owner of offending tempo. I do not find infirmity in it, in my view, the driver of offending tempo was carrying 30 passengers in the offending tempo.

8) In my view, as per the evidence on record, there was breach of terms and conditions of Insurance Policy. The order passed by the Tribunal is well reasoned. No interference is required in it.

9) It is contention of the learned counsel for the Appellants that the Tribunal has awarded 9% interest on compensation amount

which is on higher side. Considering this fact, I am considering 7.5% interest on compensation amount.

10) In view of above, I pass following order.

ORDER

- (i) The Appeals are partly allowed.
- (ii) The Respondents - Claimants are entitled for interest on compensation amount awarded by the Tribunal at 7.5% per annum instead of 9%.
- (iii) The Respondents - Claimants are permitted to withdraw the deposited amount @7.5% per annum. If the Appellant has deposited the entire award amount along with interest before this Court, he is permitted to withdraw the excess amount of 1.5% from the deposited amount.
- (v) Record and Proceedings be sent back to the Tribunal.
- (vi) All Appeals are disposed of.

[SHIVKUMAR DIGE, J.]