

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

FIRST APPEAL NO.597 OF 2020

The New India Assurance Co. Ltd.	}	
Branch Office : 1060/2, Lakshmi Road,	}	
Gadhinglaj, Taluka0Gadhinglaj,	}	
District-Kolhapur.	}	...Appellant

Versus

NILAM
SANTOSH
KAMBLE

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by NILAM
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Date: 2025.02.07
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1. Mr.Ashok Rukmanna Gavade	}	
Age-24 years, Occ: Service,	}	
Add: Naganvadi, Taluka-Chandgad,	}	
District-Kolhapur.	}	

2. Mr.Diraj Malu Gourai	}	
Age-22 years, Occ: Driver	}	
Add ; Nangav, Taluka Hatkangale, District-	}	
Kolhapur, (Driver in Mahindr Maxi Pickup	}	
Registration No.MH-11/T-7196)	}	
Public Prosecutor, Gadhinglaj,	}	
Taluka-Gadhinglaj, District-Kolhapur.	}	

3. Mr.Sachin Aannappa Shetty	}	
Age-40 years, Occ: Business,	}	
Add: Flat No.03, Mukht Senik Vasahat,	}	
Jadhevadi, Near Mahadev Temple, Taluka	}	
Karvir, District-Kolhapur	}	
(Owner in Mahindra Maxi Pickup	}	
Registration No.MH-11/T-7196)	}	...Respondents

Ms.Shalini Shankar, for the Appellant.
Mr.Sudhakar G. Thorat, for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th JANUARY 2025

ORAL JUDGMENT :-

. The issues involved in this Appeal are, at the time of accident offending vehicle was not insured with the Appellant-Insurance Company and income of the deceased is considered on higher side.

2. It is contention of the learned counsel for the Appellant that, the offending vehicle was not insured at the time of accident. Driver of offending vehicle was not holding effective and valid driving license. The income of the Claimant is considered on higher side. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, the offending vehicle was insured with the Appellant-Insurance Company and the policy was produced on record at Exhibit-32. The learned counsel further submitted that, the Claimant was working as Peon in Maratha Light Infantry, Belgaon. He was getting salary at Rs.15,000/- per month. It was proved before the Tribunal. The learned counsel

further submitted that, no evidence is produced on record to prove that, driver of the offending vehicle was not holding effective and valid driving license. The Tribunal has passed well reasoned order. The learned counsel further submitted that, though the Claimant had suffered 54% disability, but Tribunal has awarded the compensation on the basis of 25% disability, which is not proper. Hence requested to dismiss the Appeal.

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

5. Though the Appellant-Insurance Company has taken defence that, at the time of the accident driver of the offending vehicle was not holding effective and valid driving license, but no evidence is produced in that regard. Hence, I do not find merit in it.

6. It is contention of learned counsel for the Appellant that, at the time of the accident offending vehicle was not insured with the Appellant-Insurance Company. The policy of offending vehicle is produced on record. It is at Exhibit-32. This policy

shows that, the offending vehicle was insured with the Appellant-Insurance Company from 17th March 2012 to 16th March 2013. The date of the accident was 10th November 2012. It shows that, at the time of the accident offending vehicle was insured with the Appellant-Insurance Company.

7. It is Claimant's case that, at the time of the accident he was working as a Peon in Maratha Light Infantry, Belgaon. He was getting salary at Rs.15,000/- per month. To prove the income, the Claimant's have examined Sharad Pandhare, Administrative Officer in Maratha Light Infantry, Belgaon. He has stated that, the Claimant was working in their office as Peon and he was getting salary at Rs.15,000/- per month. On the basis of the evidence on record, the Tribunal has considered monthly income of the Claimant at Rs.15,000/- per month. I do not find infirmity in it. Considering the above, the Appeal is devoid of merit and I pass following order.

ORDER

- (i) The Appeal is dismissed.
- (ii) The Claimants are permitted to withdraw the

deposited amount alongwith interest.

(iii) The statutory amount alongwith interest be transferred to the Tribunal. Parties are at liberty to withdraw it, as per Rules.

(iv) Record and Proceeding be sent back to the Tribunal.

(v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)