Harish

HARISH VITHAL CHAUDHARI

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Date: 2025.12.25 11:45:04 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1703 OF 2025

Shriram General Insurance Co. Ltd.
E-8, Riico Industrial Area, Sitapura
Jaipur Rajastan.302022 ...Appellant

Versus

1. Smt. Renuka Daryappa Hattalli
Age 29 years, Occu- Household.

2. Chi. Sansakar Dayappa Hattali
Age 09 Years, Occu- Education

3. Chi. Omkar Daryappa Hattali
Age 05 yers, Occ-Education
(Appellant Nos. 2 and 3 being minor,
Hence Represented Through their natural
Guardian Mother Applicant No. 1)

4. Sou Shridevi Ishwarappa Somanna Hattali
Age 50 Years, Occu- Household.

5. Ishwarappa Somanna Hattali
Age 58 Years, Occu Nil
All R/O Huljanti, Tal Mangalwedha
Dist-Solapure ...Original Claimants

6. Shri Tohid Illahi Momin
Age 40 Years, Occu- Business
R/O Ramanad nagar Burli
Tal Palus, Dist- Sangli

7. Shri Mahesh Namdev Lugade
Age 42 Years, Occu Business

R/o A/P- Shingoli, Tal Mohol
Dist Solapure

8. HDFC Ergo General insurance Co. Ltd.
1st Fllor, Kanale Plaza, 82, Railway Lines
Duffarin Chiowk, Solapure – 413001 ...Respondents

Ms. Shalini Shankar a/w Avesh Ghadge Advocate for the Applicant.
Mr. Ajit V. Alange Advocate for Respondent Nos. 1 to 5.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th DECEMBER, 2025

P.C.

1. This appeal is preferred by the appellant/insurance company against the judgment and order passed by Motor Accident Claims Tribunal, Solapur (for short "the Tribunal").

2. It is contention of learned counsel for the Appellant that the driver of offending vehicle was holding driving license of Light Moto Vehicle (LMV), whereas, he was driving Heavy Motor Vehicle (HMV). There was breach of terms and conditions of insurance policy. The Tribunal should have exonerated the insurance company from paying compensation, but the Tribunal has passed pay and recover order, which is erroneous. Learned counsel further submitted that the Tribunal has awarded 9% interest rate on the compensation amount, it is on higher side. Learned counsel further submitted that the

Tribunal has considered notional income of the deceased on higher side without any evidence on record. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondent-claimants that there was breach of terms and condition of insurance policy. The tribunal has passed well reasoned order. No interference is required in it. Learned counsel further submitted that the deceased was agriculturist. He was in business of pomegranate and earning Rs. 5 lakh per annum, but the Tribunal has considered his income Rs. 12,000/- per month which is on lower side, but the claimants did not want to engage in any litigation hence, they have not preferred an appeal. Hence requested to dismiss the appeal.

4. I have heard both the learned counsel. Perused the impugned judgment and order passed by the Tribunal.

5. Admittedly, at the time of incident, the driver of offending vehicle was holding Light Motor Vehicle (LMV) license and he was driving Heavy Motor Vehicle (HMV). The tribunal has passed pay and recovery order as there was breach of terms and conditions of insurance policy. The owner of the vehicle has not challenged the said finding, hence, I do not find infirmity in it. In my view, it is settled principle of law, if there is breach of terms and conditions of

insurance policy, the insurance company is liable to pay the compensation and recover it from owner of the vehicle. It is claimants case that the deceased was agriculturist and he was taking crops of pomegranate and getting Rs. 5 lakhs per annum. To prove the income of the deceased, the claimants have examined claimant no. 1. Considering the evidence on record, the tribunal has considered Rs. 12,000/- as notional monthly income of the deceased. I do not find infirmity in it. The Tribunal has awarded 9% interest rate on compensation amount, which is proper. Hence I pass following order.

ORDER

I. The appeal is dismissed. No order as to costs.

II. The respondent-insurance company is at liberty to recover the compensation amount awarded by the learned Tribunal along with accrued interest from the owner of the offending vehicle.

III. Statutory amount along with accrued interest be transmitted to the Tribunal. The parties are at liberty to withdrawn it as per rules.

IV. Record and proceeding be sent back to the Tribunal.

6. All pending applications, if any, also stand disposed off.

(SHIVKUMAR DIGE, J.)