

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 2429 OF 2005

Sanjay Vijaya Kumbhar,]
 Age: Major, Occupation : Transport Business,]
 R/o. Gomewadi, Tal. Atpadi, Dist: Sangli.]
 (Original Opponent)]
 Appellant

Versus

1. Sharada Maruti Bolake,]
 Age: 42 years, Occupation : Household.]
2. Alka Maruti Bolake,]
 Age: 20 years, Occupation: Education.]
3. Ujwala Maruti Bolake,]
 Age: 18 years, Occupation : Education.]
4. Anita Maruti Bolake,]
 Age: 15 years, Occupation : Education.]
5. Jayshri Maruti Bolake]
 Age: 13 years, Occupation : Education]
6. Mahadeo Maruti Bolake,]
 Age: 11 years, Occupation : Education.]
7. Parvati Janabai Bolake,]
 Age: 78 years, Occupation : Nil,]
 Respondent Nos.1 to 7 are]
 Resident of Pundra, tal, Chandgad,]
 Dist. Kolhapur, Applicant No.4 and 6 are]
 Minors. Hence through their legal Guardian]
 Mother i.e. Respondent No.1.]
8. The New India Insurance Co. Ltd.,]
 (Br. Station Road, Sangli) A/p. Laxmi Road,]
 Gandhinglaj, Dist. Kolhapur.]
9. Ganpati Khandu Pandhare,]
 (since deceased)]

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Age: Major, Occupation: Truck Driver.]
R/o. Tapkiri Mala, ahead , the New Railway]
Station, Sangli, District: Sangli.]

.... Respondents

Mr. Satyajeet Rajeshirke a/w Mr. Shubham Vasekar, Advocate for the Appellant.

Mr. Tejpal S. Ingale, Advocate for Respondent Nos.1 to 7.

CORAM : SHIVKUMAR DIGE, J.

DATE : 24th JULY, 2025.

JUDGMENT. :

1. This appeal is preferred by the owner of the offending vehicle against the judgment and order passed by the Motor Accident Claims Tribunal, Gadhinglaj, (for short, “the Tribunal”).

2. It is contention of learned counsel for the Appellant that the Tribunal has passed pay and recover order, on the basis that, at the time of accident the driver of offending vehicle was not holding effective and valid driving licence. Learned counsel further submitted that the Appellant was not aware whether licence of the driver was expired or not. He had given his vehicle to the driver, who was expert in it, and was having valid licence. There was no negligence on the part of the owner of the offending vehicle, but the Tribunal has not considered this fact and passed pay and recover order which

is erroneous. As at the time of accident, the offending vehicle was insured with the Respondent No.8 – Insurance Company, hence, Insurance Company is liable to pay compensation. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the Respondents – Claimants that the Tribunal has passed well-reasoned order, no interference is required in it, and requested to dismiss the appeal.

4. I have heard both learned counsel, perused the judgment and order passed by the Tribunal.

5. While dealing with the issue of driving licence, the Tribunal has observed that, at the time of accident, the driver of offending vehicle was not holding effective and valid driving licence. The driving licence is at Exhibit – 39, issued by R.T.O. Sangli. The period of validity of licence shown from 3rd May, 1999 to 2nd May, 2002 and from 26th July, 2002 and 25th July, 2005. The date of accident is 23rd July, 2002. It shows that, at the time of accident, the driver of offending vehicle was not holding effective and valid driving licence. On that ground, the Tribunal has passed pay and recover order. I do not find infirmity in it.

6. Though, it is contention of learned counsel for the

Appellant that there was no negligence on the part of offending vehicle, but at the time of accident, the driver of offending vehicle was not holding effective and valid driving licence. There was breach of terms and conditions of insurance policy, hence, pay and recover order passed by the Tribunal is proper, no interference is required in it, and I pass following order:

ORDER

- i. The Appeal is dismissed.
 - ii. The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - iii. Record and proceedings be sent back to the Tribunal.
8. All pending applications, if any, also stand disposed of.

(SHIVKUMAR DIGE, J.)