

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

**FIRST APPEAL NO. 1200 OF 2022**

United India Insurance Company Limited ]  
A/P, Matoshri Plaza, Venus Corner, ]  
Station Road, Kolhapur through Claims ]  
Hub M.R.O.1, 5<sup>th</sup> floor, Union Co. Op. ]  
Building, Sir P.M. Road, Fort, Mumbai -1 ]

.... Appellant

**Versus**

1. Dropadi Dadu Wadekar ]  
Age: 65 years, Occ: Household ]
2. Sarjerao Dadu Wadekar ]  
Age: 59 years, Occ: Labour ]
3. Suresh Dadu Wadekar ]  
Age: 48 years, Occ: Labour ]
4. Ashok Dadu Wadekar ]  
Age: 45 years, Occ: Labour ]

All R/o. Pohalwadi, Tal. Panhala ]  
District: Kolhapur. ]

5. Sanjay Balwant Patil ]  
Age: 28 years, Occ: Owner/Driver, ]  
Residing at 417, Padyalchi Galli, ]  
A/P- Pishavi, Tal-Shahuwadi ]  
Kolhapur-416215 ]  
of Motorcycle No.MH-09-DB-7401 ]

.... Respondents

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Mr. S. S. Dwivedi (Through VC), Advocate for the Appellant.  
Mr. T. J. Mendon, Advocate for Respondent Nos.1 to 4 - Claimants.  
None for Respondent No.5.

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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 14<sup>th</sup> NOVEMBER, 2025.**

**ORAL JUDGMENT. :**

1. This appeal is preferred by the Appellant – Insurance Company against the judgment and order passed by the Motor Accident Claims Tribunal, Kolhapur (for short, “the Tribunal”).

2. It is contention of learned counsel for the Appellant – Insurance Company that at the time of accident, the driver of offending vehicle was not holding effective and valid driving licence. The owner/driver of the vehicle had appeared before the Tribunal and filed application stating that he misplaced his driving licence, and he will present on the next date along with the driving licence, but thereafter, he did not turned up before the Tribunal. Bailable warrant was issued against him. The learned Tribunal had called the report from the concerned R.T.O. Office. The R.T.O. in report had stated that, at the time of accident, the driver/owner was not holding effective and valid driving licence. The Tribunal has observed about it, in para Nos.20 and 21, but the Tribunal has not passed pay and recover order, which is erroneous. Hence, requested to allow the

appeal.

3. It is contention of learned counsel for the Respondent Nos.1 to 4 – Claimants that the Tribunal has passed a well-reasoned order, no interference is required in it, and requested to dismiss the appeal.

4. Though Respondent No.5 served, none present for the Respondent No.5. He also did not appear before the Tribunal, hence I am deciding this appeal on merit.

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

6. While passing order in para No.20, the Tribunal has observed that “after issuing summons also Opponent No.1 remained absent, therefore, warrant at Exhibit – 39 and Exhibit -41 have been issued to the Opponent Nos.1 and 2. The Tribunal further observed that the Opponent No.2 also received summons, as per their application at Exhibit – 38 and Exhibit – 50. Opponent No.1 – Sanjay Balwant Patil filed an application at Exhibit – 43, stating that he has misplaced his driving licence and he will produce it on the next date, but after 23/02/2022. The Opponent No.1 not appeared and not submitted the driving licence. Hence, bailable warrant was issued

against the Opponent No.2, which is at Exhibit – 46. Notice was also issued to the R.T.O. Office and they have submitted report vide Exhibit – 50. In report it is mentioned that after search they have not found the licence of the Opponent No.1 – Sanjay Patil. So on 04/08/2022 the evidence of Opponent Nos.1 and 2 was closed and matter was posted for the argument.”

7. The observations of the learned Tribunal shows that at the time of accident, the driver of the offending vehicle was not holding effective and valid driving licence, but in spite of that, the Tribunal has not passed pay and recover order. As, sufficient opportunity was given to the Opponent Nos.1 and 2, but they did not produce driving licence, and at the time of accident, the offending vehicle was insured with the insurance company, hence the insurance company is liable to pay the compensation as fixed by the Tribunal, and recover it from the Respondent No.5 – driver/owner in present appeal.

8. In view of above, I pass following order:

**ORDER**

- i. The Appeal is partly allowed.
- ii. The Appellant – Insurance Company shall pay the compensation as fixed by the Tribunal along with accrued interest thereon to the Claimants and

recover it from Respondent No.5.

iii. The Respondent Nos.1 to 4 are permitted to withdraw the deposited amount along with accrued interest thereon.

iv. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rules.

v. Record and Proceedings be sent back to the Tribunal.

9. In view of disposal of appeal, all pending applications, if any, also stand disposed off.

( SHIVKUMAR DIGE, J.)