

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**FIRST APPEAL NO. 557 OF 2023**

|   |                                                       |   |             |
|---|-------------------------------------------------------|---|-------------|
|   | The New India Assurance Co. Ltd.                      | ) |             |
|   | Pune Legal Cell, 3 <sup>rd</sup> Floor,               | ) |             |
|   | Above Nehru Memorial Hall, Camp, Pune.1               | ) |             |
|   | Through Mumbai Legal Hub,                             | ) |             |
|   | 41-B, 4 <sup>th</sup> Floor, Maker Tower – E,         | ) |             |
|   | Near World Trade Centre, Cuffe Parade,                | ) |             |
|   | Mumbai – 400 005                                      | ) | Appellant   |
|   | versus                                                |   |             |
| 1 | Pravina Pradeep Gokhale                               | ) |             |
|   | Age 43 years, Occ.: Tuition & Business,               | ) |             |
|   | R/at 501, Raste Wada, Rasta Peth, Pune 11.            | ) |             |
| 2 | Parag Hanumant Tambe                                  | ) |             |
|   | Age Adult, Occ.: Business                             | ) |             |
|   | R/at 16/6, Raghudurg Apartment,                       | ) |             |
|   | Near Varun Raj Hotel, Karve Road, Pune-4              | ) |             |
|   |                                                       | ) |             |
|   | <b>Appeal Exparte against R.No.2 as per Ct. order</b> | ) |             |
|   | <b>dt. 24.01.2025</b>                                 | ) | Respondents |

**WITH**  
**FIRST APPEAL NO. 584 OF 2024**

|   |                                               |   |             |
|---|-----------------------------------------------|---|-------------|
|   | The New India Assurance Co. Ltd.              | ) |             |
|   | Pune Legal Cell, 3 <sup>rd</sup> Floor,       | ) |             |
|   | Above Nehru Memorial Hall, Camp, Pune.1       | ) |             |
|   | Through Mumbai Legal Hub,                     | ) |             |
|   | 41-B, 4 <sup>th</sup> Floor, Maker Tower – E, | ) |             |
|   | Near World Trade Centre, Cuffe Parade,        | ) |             |
|   | Mumbai – 400 005                              | ) | Appellant   |
|   | versus                                        |   |             |
| 1 | Anagha Prasanna Ghare (Ghate)                 | ) |             |
|   | Age 41 years present, Occu : Housewife        | ) |             |
|   | R/at Flat No.5, Vidya Bhavan,                 | ) |             |
|   | 634, Budhwar Peth, Pune - 2                   | ) |             |
| 2 | Parag Hanumant Tambe                          | ) |             |
|   | Age Adult, Occ.: Business                     | ) |             |
|   | R/at 16/6, Raghudurg Apartment,               | ) |             |
|   | Near Varun Raj Hotel, Karve Road, Pune-4      | ) | Respondents |

**WITH  
FIRST APPEAL NO. 199 OF 2021**

|                                               |   |  |             |
|-----------------------------------------------|---|--|-------------|
| The New India Assurance Co. Ltd.              | ) |  |             |
| Pune Legal Cell, 3 <sup>rd</sup> Floor,       | ) |  |             |
| Above Nehru Memorial Hall, Camp, Pune.1       | ) |  |             |
| Through Mumbai Legal Hub,                     | ) |  |             |
| 41-B, 4 <sup>th</sup> Floor, Maker Tower – E, | ) |  |             |
| Near World Trade Centre, Cuffe Parade,        | ) |  |             |
| Mumbai – 400 005                              | ) |  | Appellant   |
| versus                                        |   |  |             |
| 1 Shakuntala Ratnakar Kulkarni                | ) |  |             |
| Age 70 years present, Occ. : Housewife        | ) |  |             |
| R/at. 501, Raste Wada, Rasta Peth, Pune - 11  | ) |  |             |
| 2 Parag Hanumant Tambe                        | ) |  |             |
| Age Adult, Occ.: Business                     | ) |  |             |
| R/at 16/6, Raghudurg Apartment,               | ) |  |             |
| Near Varun Raj Hotel, Karve Road, Pune-4      | ) |  | Respondents |

**WITH  
FIRST APPEAL NO. 203 OF 2021**

|                                               |   |  |             |
|-----------------------------------------------|---|--|-------------|
| The New India Assurance Co. Ltd.              | ) |  |             |
| Pune Legal Cell, 3 <sup>rd</sup> Floor,       | ) |  |             |
| Above Nehru Memorial Hall, Camp, Pune.1       | ) |  |             |
| Through Mumbai Legal Hub,                     | ) |  |             |
| 41-B, 4 <sup>th</sup> Floor, Maker Tower – E, | ) |  |             |
| Near World Trade Centre, Cuffe Parade,        | ) |  |             |
| Mumbai – 400 005                              | ) |  | Appellant   |
| versus                                        |   |  |             |
| 1 Prasanna Prabhakar Ghare (Ghate)            | ) |  |             |
| Age 46 years present, Occ. : Serfice          | ) |  |             |
| R/at Flat No.5, Vidya Bhavan,                 | ) |  |             |
| 634, Budhwar Peth, Pune – 2.                  | ) |  |             |
| 2 Parag Hanumant Tambe                        | ) |  |             |
| Age Adult, Occ.: Business                     | ) |  |             |
| R/at 16/6, Raghudurg Apartment,               | ) |  |             |
| Near Varun Raj Hotel, Karve Road, Pune-4      | ) |  | Respondents |

**WITH**  
**FIRST APPEAL NO. 544 OF 2022**

|                                               |   |              |
|-----------------------------------------------|---|--------------|
| The New India Assurance Co. Ltd.              | ) |              |
| Pune Legal Cell, 3 <sup>rd</sup> Floor,       | ) |              |
| Above Nehru Memorial Hall, Camp, Pune.1       | ) |              |
| Through Mumbai Legal Hub,                     | ) |              |
| 41-B, 4 <sup>th</sup> Floor, Maker Tower – E, | ) |              |
| Near World Trade Centre, Cuffe Parade,        | ) |              |
| Mumbai – 400 005                              | ) | Appellant/s  |
| versus                                        |   |              |
| 1 Pradeep Avinash Gokhale                     | ) |              |
| Age 44 years, Occ.: Prop Of Vastushastra,     | ) |              |
| R/at. 501, Raste Wada, Rasta Peth, Pune.11    | ) |              |
| 2 Parag Hanumant Tambe                        | ) |              |
| Age Adult, Occ.: Business                     | ) |              |
| R/at 16/6, Raghudurg Apartment,               | ) |              |
| Near Varun Raj Hotel, Karve Road, Pune-4      | ) | Respondent/s |

Mr. Devendranath S. Joshi, Advocate for the Appellant-Insurance Company in all Appeals.

Mr. Rajesh A. More, Advocate for Respondent No.1-Claimant in all Appeals.

Mr. Pavan Patil a/w. Mr. Shubham Saraf, Advocates for Respondent No.2 in all Appeals.

**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 7<sup>th</sup> JULY, 2025.**

**Judgment :**

1. All these appeals are preferred against the judgments and orders passed by the Motor Accident Claims Tribunal, Pune (for short “the Tribunal”.) The issues involved in all these appeals are same, hence, I am deciding these appeals by this common judgment.

2. Learned counsel for the appellant-Insurance Company submitted that the cheque which was issued as a premium of insurance policy was dishonoured. The said fact was informed to the owner of the offending vehicle and the Regional Transport Office. There was breach of terms and conditions of the insurance policy but this fact is not considered by the Tribunal. The Tribunal has not exonerated the Insurance Company. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondents/claimants that the Tribunal has deducted compensation received under mediclaim policy in two appeals. As per the view of Full Bench of this Court, it be awarded to the claimants.

4. I have heard all learned counsel, perused the judgment and order passed by the Tribunal. While passing the judgment and order, the Tribunal has observed that the cheque which was issued as premium of insurance policy was dishonoured at the time of the accident, insurance was in force but there was breach of terms and conditions of the Insurance policy and, on that ground, the Tribunal has passed pay and recover order. The said order was challenged by the appellant-Insurance Company before this Court in Appeal No.272 of 2022. This Court has confirmed the said order. The order passed by this Court dated 12<sup>th</sup> December 2023 has not been challenged by the Insurance Company. Hence, the order passed by this Court has attained finality. The

appellant- Insurance Company can recover the compensation amount from the owner of vehicle.

6. Though it is contention of learned counsel for respondents/claimants that the compensation under mediclaim policy which is deducted by the Tribunal be awarded to the respondents/claimants but no appeal is preferred by the claimants. Hence, I do not see merit in it.

7. It is the contention of learned counsel for the appellant/Insurance Company that the Insurance Company has deposited the compensation amount along with interest thereon as directed by the Tribunal.

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

#### **ORDER**

1. All the first appeals are partly allowed.
2. Respondent No.1/claimant in all the first appeals are permitted to withdraw the amount deposited by the appellant-Insurance Company along with accrued interest thereon.
3. The appellant-Insurance Company can recover the compensation amount along with accrued interest thereon from the owner of the offending vehicle.
4. The statutory amount in all the first appeals be transferred to the Tribunal along with accrued interest

thereon. The parties are at liberty to withdraw it as per Rule.

5. Record and proceedings be sent back to the Tribunal.
9. Pending applications, if any, stand disposed of.

**(SHIVKUMAR DIGE, J.)**