IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1729 OF 2024

Oriental Insurance Company Ltd.
A Company Incorporated under the General Insurance Act.,
Having Its Office-Shree Duttakripa, Ganesh Baug, Murbadroad, Kalyan-421 304 …..Appellant

Versus

1 Sunita Sunil Bhoir
Age-37 years, Occ: Homemaker

2 Vandana Devram Bhoir
Age-66 years, Occ: Nil

3 Harshala Sunil Bhoir
Age-16 years, Occ: Nil

4 Sandeep Devram Bhoir
Age-34 years, Occ: Nil

All R/at Mokhavne Village, Post-Kasara, Taluka-Shahapur, District-Thane.

5 Sudhakar Namdeo Sadgir
Age-Adult, Occ: Business
R/at Khardi, Station Road, Taluka-Shahapur
District-Thane. …..Respondents

Mr.Rajesh Kanojia a/w Ms.Deepika Prabhala i/b Res Juris, Advocates for the Appellant-Insurance Company.
Ms.Rina Kundu, Advocate for Respondent Nos.1 to 4-Claimants.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JULY, 2025.

Judgment. :

1. The issue involved in this appeal is breach of terms and conditions of the insurance policy.

2. It is contention of learned counsel for the appellant that the deceased was travelling in the offending vehicle as fare paying passenger. The deceased was travelling in the offending vehicle for attending marriage along with other persons. While passing the impugned judgment and order, the Tribunal has observed that there was breach of terms and conditions of the insurance policy and the Insurance Company has liberty to recover the paid sum of compensation from the owner of the vehicle but in operative order, pay and recovery order is not passed. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent Nos.1-4/claimants that the Tribunal has passed well reasoned order, no interference is required in it. The consortium amount is not given to one claimant, it be awarded.

4. I have heard both learned counsel, perused the judgment and order passed by the Motor Accident Claims Tribunal, Kalyan (for short "the Tribunal").

5. While passing the judgment and order, the Tribunal in paragraph 32 has observed that there was breach of terms and conditions of the insurance policy as the deceased was travelling in the offending

vehicle to attend the marriage and Insurance Company is at liberty to recover the paid sum of compensation from the owner of the offending vehicle but in operative order, there is no reference of pay and recover order.

6. While awarding consortium amount, the Tribunal has awarded consortium to three claimants and consortium amount is remained to be paid to one claimant. The said claimant is entitled to Rs.48,000/- as consortium amount.

7. Considering the above reasons, I pass following order :

O R D E R

1. The appeal is partly allowed.
2. The appellant-Insurance Company shall pay the compensation fixed by the Tribunal along with accrued interest thereon to the claimants and recover it from respondent No.5-owner of the offending vehicle.
3. The appellant-Insurance Company shall deposit the enhanced amount of Rs.48,000/- at 7.5% per annum within four weeks after the receipt of the order. The claimants are entitled for interest on this amount from 1st November 2017 till realisation of the amount.
4. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
5. The statutory amount be transferred to the Tribunal

along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

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

8. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)