

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

FIRST APPEAL NO.980 OF 2024

Divisional Officer,	}	
Go Digital General Insurance Co. Ltd.	}	
Address : Yeolekar Mala, Sahajivan Colony,	}	
College Road, Nashik.	}	...Appellant
	}	

Versus

1. Theba Hama Pawara	}	
Age-50 years, Occ: Baour Work	}	

2. Pangibai Theba Pawara	}	
Age-48 years, Occ: Household,	}	
R/o: Takyapani, Post-Kodid, Shripur,	}	
Dhule-424428.	}	

3. Yogesh Khanderao Pingale	}	
Age-Adult, Occ: vehicle Owner,	}	
R/o. Sulewadi, Makhamalabad, Tavaliphata,	}	
Nashik.-422003.	}	...Respondents

Mr.Rajesh Kanojia i/b Res Jursi, for the Appellant.

Ms.Rupa Singh i/b Mr.Rajan S. Pawar,, for Respondent Nos.1 and 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th JUNE 2025

ORAL JUDGMENT :-

. The issues involved in this Appeal is pay and recover

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2025.06.30
10:21:29 +0530

order passed by the Tribunal.

2. It is contention of the learned counsel for the Appellant-Insurance Company that, the deceased was traveling as gratuitous passenger in the offending vehicle. Hence, Insurance Company is not liable to pay to the Claimant. But this fact is not considered by the Tribunal and has passed pay and recover order, which is erroneous. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant 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 judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Nashik.

5. While awarding the compensation the Tribunal relying on judgment of this Court in case of New India Assurance Company Ltd. V/s. Punjabai Bansi Solase¹ and United India

¹ (2019-2-Mh L.J. 172)

Insurance Company V/s. Godabai² has granted pay and recover order, I do not find infirmity in it.

6. In my view, admittedly, at the time of the accident offending vehicle was insured with the Appellant-Insurance Company, if there is breach of Terms and Conditions of the Insurance Company, it is settled law that Insurance Company shall pay the compensation and recover it from the owner of the offending vehicle.

7. In view of above, I pass following order.

ORDER

- (i) The Appeal is dismissed.
- (ii) The Claimants are permitted to withdraw deposited amount along with accrued interest.
- (iii) The statutory amount alongwith interest be transferred to the Tribunal. Parties are at liberty to withdraw it, as per Rules.
- (iv) Record and Proceedings be sent back to the Tribunal.

² 2019 4) TAC 836 (Bom)

(v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)