IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.121 OF 2025

1. Tarabai Lahu Bombale (Since Deceased]
Through Legal Heirs.]

1a] Lahu Ramchandra Bomble]
Age- 54 years, Occ- Nil,]
R/at: Saigaon Tal. Khed, Dis-Pune.]

1b] Shantabai @ Savita Tukaram Borkar]
Age-32 years, Occ-Household,]
R/at: Saigaon Tal. Khed, Dist-Pune.]

1c] Kavita Bajrang Gopale]
Age: 30 years, Occ-Household,]
R/at: Saburdi Tal.Khed, Dist-Pune.]

1d] Suvrna Bharat Echake]
Age: 28 years, Occ-Household,]
R/at: Bursewadi, Tal. Khed, Dist-Pune.]

1e] Bharati Bhalchandra Raut]
Age: 26 years, Occ-Household,]
R/at: Mohkal Tal. Khed, Dist-Pune.]

1f] Rani Jagannath Borhade]
Age: 24 years, Occ-Household,]
R/at: Khed, Dist: Pune.]

1g] Chakuli Sachin Pashankar]
Age: 22 years, Occu- Household,]
R/at: Saburdi, Tal.Khed, Dist- Pune.]

.... **Appellant**

Versus

1. ICICI Lombard General Insurance Company]
Lt. Mumbai]
ICICI Lombard House, 414, Veer Savarkar]
Marg, Near Sidhivinayak Temple Prabhadevi,]

	Mumbai – 400025.	]
2.	Nikhil Laxman Bombale, Age about – Adult, Occ- Agriculturish,	]]
3.	Bhagwan Laxman Bombale, Age about – Adult, Occ-Agriculturist, Both R/at – Vetale, Tal-Khed, Dist- Pune.	]]]

.... **Respondents**

Mr. Yogesh Pande, Advocate for the Appellant.
Mr. Rahul Mehta i/b KMC Legal Venture, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th JULY, 2025.

JUDGMENT. :

1. This appeal is preferred by the Appellants – Claimants against the judgment and order passed by the Motor Accident Claims Tribunal, Khed, Pune (for short, “the Tribunal”).

2. It is contention of learned counsel for the Appellants – Claimants that the Tribunal has held that at the time of accident, the driver of offending vehicle was not holding effective and valid driving licence and there was breach of Terms and Conditions of insurance policy. On that ground, the Tribunal has exonerated the insurance company from paying compensation, it is erroneous. The Tribunal should have passed pay and recover order. Learned counsel

further submitted that the Tribunal has not awarded consortium amount to all the Claimants, it be awarded, and requested to allow the appeal.

3. It is contention of learned counsel for the Respondent No.1 – Insurance Company that the Appellant had examined R.T.O. to prove that the driver of offending vehicle was not holding effective and valid driving licence on the day of accident. The Tribunal has come to conclusion that the driver of offending vehicle was not holding effective and valid driving licence. There was breach of Terms and Conditions of insurance policy, on that ground, 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 in Para No.24 of the judgment, the Tribunal has observed that considering evidence of PW-3, employee of the R.T.O., it appears that, at the time of accident, the driver of offending vehicle was not holding effective and valid driving licence and there was breach of Terms and Conditions of insurance policy. On that ground, the Tribunal has

exonerated the insurance company from paying compensation and fixed liability on the owner of the offending vehicle. I am unable to understand the observation of the Tribunal. It is settled principle of law that if there is breach of Terms and Conditions of insurance policy The insurance company is liable to pay the compensation to the Claimants and recover it from the owner of the offending vehicle, hence, I pass pay and recover order.

6. The Tribunal has awarded amount of Rs.70,000/- for consortium amount. There are 7 Claimants. As per view of Hon'ble Apex Court in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram 2018 ACJ2782 (SC)***, each Claimant is entitled Rs.48,000/- for consortium amount, Rs.18,000/- for funeral expenses and Rs.18,000/- for loss of estate. So, total amount comes to Rs.3,72,000/-. If already awarded Rs.70,000/- is deducted from the amount considered by this Court, it comes to Rs.3,02,000/-. The Claimants are entitled for this amount.

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

ORDER

I. The Appeal is allowed.

ii. The Respondent No.1 – Insurance Company shall deposit the compensation amount along with interest as fixed by the Tribunal and is at liberty to recover it from the owner of offending vehicle.

iii. The Claimants are entitled enhanced amount of Rs.3,02,000/- @ 7.5% interest per annum from 1st November, 2017 till realization of the amount.

iv. The Respondent No.1 – Insurance Company shall deposit the enhanced amount along with accrued interest thereon, within four weeks after receipt of this order.

v. The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

vi. The Claimants shall pay the deficit Court fees on enhanced amount, if any, as per Rules.

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

9. All pending applications, if any, also stand disposed of.

(SHIVKUMAR DIGE, J.)