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

FIRST APPEAL NO. 1866 OF 2025
WITH
INTERIM APPLICATION NO. 9501 OF 2025
WITH
INTERIM APPLICATION NO.11477 OF2024

Future Generali India Ins. Co. Ltd. ....Appellant
V/S
Smt. Amira Amar Mishra & Ors. ....Respondents

***

Adv. Rajesh Kanojia a/w. Adv. Prachi Pawar i/b Res Juris for Appellant-Insurance Company.
Adv. Rina Kandu for the Respondents.

***

CORAM : M. M. SATHAYE, J.

DATED : 8th JANUARY 2026

P.C.:

1. Heard learned Counsel for the parties. Perused the record.

2. The Appeal is filed by Insurance Company (Opponent No. 2) challenging the judgment and order dated 08/08/2023 passed in Application (ECA) No. 410/B-85 of 2018. By the said impugned order the Application filed by the Respondent Nos. 1 to 6 (Claimants) u/s. 4 of Employee's Compensation Act, 1923 is allowed, thereby declaring that the Appellant-Insurance Company as well as Respondent No. 7 Owner/employer are jointly and severely liable to pay compensation.

3. Learning Counsel for the Appellant-Insurance Company, relying on the statement given by the present Respondent No. 7 (owner of the tempo) submits that the owner has stated to a private investigator employed by the

the Insurance Company that though the vehicle was purchased on loan, since the owner was not in a position to pay loan repayment installments, same was given to deceased – Amar Mishra for plying. This statement is produced at Exh. C-12. He submits that in the said statement, the Respondent No. 7-owner has clearly denied the employer-employee relationship. He submits that therefore the learned Commissioner was not justified in allowing the Application putting liability upon the Appellant - Insurance Company

4. *Per contra,* learned Counsel for Respondent Nos. 1 to 7 (Claimants) submitted that the so-called statement of the Respondent No. 7-owner Ex. C-12 is not believable, as it is issued on plain paper and it is not clear to whom the statement is given. She submits that from the impugned judgment itself it is clear that the same person (owner) has given a statement to the police authority after accident, admitting that he was the owner of the vehicle and the deceased was working as a driver on the said vehicle.

5. I have considered the submissions and perused the records.

6. From Paragraph 22 of the impugned judgment it is clear that the statement of Respondent No. 7-Owner was recorded by Baliv Police station (Exh.U-18) wherein the owner has admitted that he was owner of the vehicle involved and the disease was working as driver thereon. Learned Commissioner has accepted the statement given to police as believable and has come to the conclusion that employer-employee relationship is established.

7. Perusal of the cross-examination of witness of the Insurance Company shows that he admitted that the statement (Exh. C-12) does not indicate as

to whom it was given and the statement itself is not addressed to anybody. The said witness has also admitted that apart from this statement, there is no document available on record to show that there was any arrangement or agreement between the diseased and the owner for plying the vehicle on hire or purchase. The witness has also admitted he has no personal knowledge about statement Exh. C-12 given during private investigation.

8. In the aforesaid facts and circumstances, in my view, the Commissioner was justified in relying upon the statement given by the Owner to the police authority, which is produced on record at Exhibit U-18.

9. In any case, the aspect of employer-employee relationship, which is to be borne out from evidence on the record, is a question of fact, especially in the facts narrated above. As such, no substantial question of law is involved or raised as a required under 1st proviso to section 30(1) of the Employee's Compensation Act, 1923. The view taken by the Commissioner under impugned order is a probable view and no perversity is found therein.

10. The Appeal is accordingly dismissed. In view of the dismissal of the Appeal, Interim Applications are also disposed of.

11. In view of the dismissal of the Appeal, Respondent Nos. 1 to 6 (Claimants) are at liberty to withdraw the amount, which is lying in the Labour Court, Thane (concerned Commissioner for Employees Compensation) as deposited by the Insurance Company, alongwith accrued interest, if any.

(M. M. SATHAYE, J.)