

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 695 of 2023

Divisional Manager,
The New India Assurance Co.Ltd. Appellant

VERSUS

Bapu Bhata Shillak & Ors. Respondents

ALONGWITH
INTERIM APPLICATION NO. 3743 OF 2023
IN
FIRST APPEAL NO. 695 of 2023

Bapu Bhata Shillak & Anr. Applicants

IN THE MATTER BETWEEN

Divisional Manager,
The New India Assurance Co.Ltd. Appellant

VERSUS

Bapu Bhata Shillak & Ors. Respondents

Mr.S.S.Jinsiwale for the Appellant.

Mr. P. K. Bohade for the Applicant.

CORAM: ABHAY AHUJA, J.

DATE : 14th JULY, 2023

P.C:-

This is an appeal filed by the Insurance Company impugning the judgment and award dated 19th March, 2021 passed by the M.A.C.T,

Nashik, in M.A.C.P. Application No. 965 of 2014. Mr. Jinsiwale, learned counsel for the Appellant would submit that although the Tribunal has held in paragraph (29) that at the most the deceased is a gratuitous passenger in the goods vehicle, it has gone ahead and awarded compensation to the claimants to be payable by the Insurance Company.

2. Learned counsel would submit that if the deceased is a gratuitous passenger, then the Insurance Company would not be liable under the terms of the insurance policy and therefore the appeal deserves to be allowed and the order of the tribunal be set aside.

3. Having heard learned counsel and having perused the grounds as well as the impugned decision, the following order is passed :-

- (i) Admit.
- (ii) Registry is directed to call for the records and proceedings within a period of four weeks.
- (iii) Let private paper-book to be filed within

a period of four weeks thereafter with copy to the other side.

(iv) List for final hearing on **15th September, 2023.**

[ABHAY AHUJA, J.]