

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.544 OF 2020

THE NEW INDIA ASSURANCE CO. LTD.)...APPELLANT

V/s.

SHRI.AJIT BAPU MINEKAR AND ORS.)...RESPONDENTS

Mr.Himanshu Takke i/b. Mr.Milind More, Advocate for the Appellant.

Mr.Parth Modak i/b. Mr.Bhushan Walimbe, Advocate for the Respondents No.1 to 5.

CORAM : ABHAY AHUJA, J.

DATE : 13th JULY 2023

P.C. :

1. This is an Appeal filed by the Insurance Company assailing the judgment and award dated 3rd February 2018 passed by the Motor Accident Claims Tribunal, Kolhapur in Motor Accident Claim Petition No.678 of 2010.

2. Mr.Himanshu Takke, learned Counsel for the Appellant, submits that the Insurance Company has a case on merits in as much as the Tribunal has erroneously failed to consider the documentary evidence

viz., the First Information Report (FIR) which would prove the non-involvement of the vehicle insured by the Appellant Insurance Company. Mr. Takke draws the attention of this Court to paragraph 10 of the impugned order and submits that only on the basis of oral evidence, the Tribunal has come to a conclusion that the insured vehicle was involved which is grossly erroneous.

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

ORDER

- (i) Admit.
- (ii) Registry is directed to call for Record and Proceedings within a period of four weeks.
- (iii) Let private paper book be filed within a period of four weeks thereafter with a copy to the other side.
- (iv) List on **13th September 2023**, subject to removal of all office objections.

4. In the meanwhile, as recorded in order dated 7th January 2023 and as submitted by the parties, the Appellant and the claimants are at liberty to amicably settle the matter.

(ABHAY AHUJA, J.)