

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 372 OF 2000

The United India Insurance Co. Ltd.,
through its Branch Manager,
Hanuman Chowk, Latur
(The appeal is filed through
Divisional Manager (Constituted
Attorney), United India Insurance
Co. Ltd., Divisional Office,
Aurangabad

... Appellant
(Ori. Respondent No. 3)

VERSUS

1. Sow Sheshabai w/o Pandurang Kamble,
Age : 41 years
2. Vijayabai w/o Raosaheb Kamble,
Age : 24 years, Occu. Household

Both residents of Padoli (Akubai), Taluka and District Osmanabad

**Respondents/
Ori. Claimants**

3. Anil s/o Nagurao Maske,
Age : 25 years, Occu. Driver,
Resident of Terna Society,
Behind Kalikadevi Temple,
Latur

4. Udaykumar s/o Pandharinath
Jadhav

**Respondents/Orig.
Respondents No.1 & 2**

5. Ramesh s/o Sonji Shelar,
Age : Major, Occu. Business,
Resident of At post Belapuragaon, Tq. Shrirampur, Dist. Ahmednagar
- Respondent/Orig.
Respondent No. 4**

Mr. D.V. Soman, Advocate for the appellant
Mr. R.R. Deshmukh, Advocate holding for
Mr. R.B. Deshmukh, Advocate for respondents No. 1 and 2.
None appears for respondent No. 3, though served
Appeal is dismissed as against respondent No. 4 vide
Registrar's order dated 15.03.2005
Mr. R.H. Wagh, Advocate holding for Mr. B.V. Wagh,
Advocate for respondent No. 5.

CORAM : M.T. JOSHI, J.
DATE : 9TH FEBRUARY, 2015

ORAL JUDGMENT :

1. Heard both sides.
2. The present appeal is filed challenging the award of the learned Member of the Motor Accident Claims Tribunal in a Motor Accident Claims Petition under section 166 of the Motor Vehicles Act, only on the ground that on the date of causing of the accident by respondent No. 3 – Anil Maske, he was not holding valid and effective driving licence.
3. Upon hearing both the sides, my finding to the above point is in the negative. The appeal is, therefore, dismissed, for the reasons to follow :-

R E A S O N S

4. The photocopy of the driving licence of original respondent No. 1 – Anil Maske was filed by the present respondents No. 1 and 2 i.e. original claimants which was exhibited at Exhibit-45 by the learned Member of M.A.C. Tribunal. It would show that said respondent Anil Maske was issued driving licence on 9th September, 1994. The accident has occurred on 22nd November, 1994 to the jeep bearing registration No. MXZ-8691 driven by him.

5. The present appellant – insurer/original respondent No. 3 came with a case that the said respondent – Anil Maske was not holding the valid and effective driving licence and placed on record a certificate issued by the R.T.O. It would show that the date of issuance of the driving licence of respondent Anil was 09.09.1996.

6. The learned Member of the Tribunal concluded that in view of the fact of filing of photocopy of the driving licence of respondent Anil, it may be a matter that the driving licence was renewed on the date as

shown by the certificate issued by the R.T.O. In that view of the finding, since no other evidence from the side of the present appellant-insurer regarding presence or absence of valid driving licence was filed, the impugned award was passed.

. Besides this, the certified copy of the FIR, filed on record, would show that the respondent No. 3 – Anil Maske was not prosecuted by the police for not having any driving licence.

7. Taking into consideration all these facts on record, in my view, the finding arrived at by the learned Member of the Tribunal is correct. Hence, the following order:-

8. The appeal is dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE

npj/fa372-2000