

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**FIRST APPEAL NO. 345 OF 2015  
WITH  
CIVIL APPLICATION NO. 1787 OF 2015**

Bajaj Allianz General Insurance Co. Ltd.,  
Through its Branch Manager/Authorized Signatory,  
Shop No. 32 and 34, Navandar Arcade,  
Kawa Road, Opposite to Market Yard,  
Gate No. 2, Latur.

...Appellant

versus

Mudrika W/o Shamrao Earle,  
Age: 56 years, Occu: Nil,  
R/o Shirsi (Hangarga), Tq. : Nilanga,  
At present Dadoji Kondeo Nagar,  
Ring Road, Latur & ors.

...Respondents

.....  
Mr. S. G. Chapalgaonkar, Advocate for appellant.

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**CORAM : N.W. SAMBRE, J.**

**DATE : 8TH JUNE, 2015**

**ORAL ORDER :**

. With the consent of learned Counsel for the appellant-Insurance Company, appeal is taken out for final hearing at admission stage.

2. M. A. C. P. No. 26 of 2013 came to be allowed by the Tribunal by its order dated 27/11/2014 ordering payment of

compensation of Rs. 1,60,000/- with interest @ 7.5 p.a.

3. Another claim petition bearing No. 274 of 2011 was filed and allowed by the tribunal which was arising out of the same accident.

4. Against the said order, the Insurance Company has not preferred appeal, at least no such evidence is brought on record to that effect.

5. Considering award delivered in M.A.C.P. No. 274 of 2011, the tribunal has delivered award under challenge.

6. Learned Counsel for the appellant-Insurance Company, while questioning the legality of the award has invited attention of this Court to the fact about breach of policy condition, as according to him, the offence which was registered arising out the accident in question was against Auto Driver who was not holding valid license.

7. If the above referred contentions are tested in the light of observations made by the tribunal in the award in question, it is noted that, other defence in earlier M.A.C.P. No. 274 of 2011 which already attained finality. In view thereof, in my opinion, the tribunal was right

in taking similar view as present claim is arising out of the same accident.

8. In view thereof, even if the contentions that, violation of breach of policy condition is sought to be establish herein, unless the judgment passed in M.A.C.P. No. 274 of 2011 is not upset, the tribunal was right in following the said award.

9. As such, the present appeal is devoid of merit, stands dismissed.

10. In view of dismissal of appeal, civil application does not survive, same stands disposed. of.

**[ N.W. SAMBRE, J. ]**