IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.2063 OF 2010
WITH
CIVIL APPLICATION NO. 8577 OF 2008
CIVIL APPLICATION NO. 4707 OF 2015

The Oriental Insurance Company Ltd.,
Branch Dhule. Through its General
Manager, Lane No.2, Near Lal Baag
Maruti Temple,Dhule 424001. ...Appellant

versus

1. Abdul Gajur Abdul Jabbar,
Age: 28 years, Occ: Motor Driver,
R/o. Dausha Takiya,
New Bhoi Lane, Nandurbar.

2. Shri. Devindar Singh Mohan Sing,
Age: Business, R/o. Golden Punjab
Hotel, Dehisar Tq. & Dist. Thane,
or
6/5/190, Washi, Navi Mumbai,
Dist. Thane.
(R-2 is dismissed as per order
dated 01/02/2013). ...Respondents

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Mr. U.S. Malte , Advocate for appellant.
Mr. N.L. Choudhary, Advocate for respondent No.1.

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CORAM : N.W. SAMBRE, J.

DATE : 24th APRIL, 2015

ORAL ORDER :

Heard Mr. Malte, learned Counsel for the appellant-Insurance Company.

2. The appellant has questioned the judgment delivered by the Motor Accident Claims Tribunal, Nandurbar in Motor Accident Claim Petition No. 112 of 2004 after recording its finding on the following issues.

(1) Does petitioners prove that they are entitled to claim compensation amount from the opponents?	Yes
(2) Do petitioners prove that the alleged incident took place due to rash and negligent driving of driver?	Yes
(3) Does Insurance Company prove that there is breach of terms and conditions of the policy?	Redundant
(3-A) Does insurance company prove the documents of policies of insurance produced on record are false, fabricated and bogus?	No
(4) What is the liability of the opponents?	Rs.91,000/-
(5) What order?	Application against opponents Nos. 1 & 2 is partly allowed with proportionate cost.

3. The findings recorded by the tribunal on the aspect of the defence raised by the present appellant about policy in question, Mr. Malte, learned Counsel for the appellant would urge that the evidence was not properly appreciated by the tribunal.

4. If we perused the findings recorded by the tribunal to that

effect, particularly Point No.3A, the tribunal has recorded that Exhibit-60 shows the date of collection of premium for the policy 04/10/1998 and the period of policy from 05/11/1998 to 04/11/1999. The tribunal further noticed that the certificate-cum-policy schedule at Exhibit-71 was produced on record and the details of policy issued including that of its Office Code, the vehicle registration number, D.O. number were taken into account and has given finding that the said defence was not established by the Insurance Company. The tribunal has also taken into account the evidence of OW-1 Vijay, who has deposed in support of the above referred defence, however, he has failed to state in categorical terms that the certificate of Insurance Company at Exhibit-71 and that of certificate produced at Exhibit-60 was false one.

5. In my opinion, the Insurance Company has rightly appreciated the said evidence and has rejected the above contentions.

6. The next contention of Mr. Malte, learned Counsel for the appellant that tribunal given findings that the claimant has suffered 20% disability, however, according to him, the said findings are not supported by any evidence. In my opinion, the tribunal while giving such findings has recorded the nature of injuries suffered by claimant i.e. cervical spinal cord, left knee, lip, left hand and abdomen. The tribunal has taken into account the evidence which was in documentary form issued by Doctor from Government Hospital and gave finding that there was no reason to disbelieve the certificate given by Doctor from Government Hospital. Under

the head of permanent disability, an amount of Rs.20,000/- was awarded.

7. Having regard to the said findings, which are supported by cogent evidence in the award delivered by the tribunal, in my opinion, no case for interference is made out. As such, the appeal fails, stands dismissed.

8. Consequently, the civil applications stand disposed of.

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

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