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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO.1379 OF 2011
WITH
CIVIL APPLICATION NO.1842 OF 2017**

The Oriental Insurance Co. Ltd.	...	Appellants
V/s.		
Vilas Maruti Kadam		
and anr	...	Respondents

Mr. A.S. Vidyarthi, for the appellant.
Mr. Mr. Sangramsingh Yadav, for respondent

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 25th OCTOBER, 2018.

P.C. :

- 1] Heard learned counsel for the appellant and respondent.
- 2] This appeal is directed against the judgment and award dated 05.03.2011, passed by Motor Accident Claims Tribunal, Karad, thereby allowing partly M.A.C.P. No.21 of 2007, and directed the compensation of Rs.7,40,912/- including N.F.L. amount with interest at the rate of 6% per annum.
- 3] The Appeal is preferred by the Insurance Company, mainly, on the two counts, first quantum of compensation and second the offending vehicle driver was not having driving licence of heavy vehicle like truck. However, the perusal of the judgment passed by the

Tribunal goes to show that certificate issued by R.T.O. Beed was produced on record to prove licence was issued in the name of driver of truck which was of class of light motor vehicle and it was valid in between 29.6.2001 to 4.6.2022. The Vehicle was registered with R.T.O. Ahmednagar, as Heavy goods vehicle and certificate to that effect is also produced on record. The concerned Officer from R.T. O. Beed, is examined by the Insurance Corporation, whose evidence goes to show that said vehicle was heavy motor vehicle Truck and licence was issued of light motor vehicle. However, during his cross-examination, it is admitted that the net weight of the same vehicle comes to 6666 Kg. As per the provisions of Motor Vehicles Act, the weight of Light Motor Vehicle is 7500, kg. Moreover, he has further admitted that a person can obtain licence of driving heavy vehicle by showing address other than the address mentioned in the licence. In view thereof, it was rightly held by the Tribunal that the driver was holding valid licence, at least it cannot be said that the truck driver was not having valid licence.

4] In view thereof, I have to hold that the Tribunal has rightly allowed the claim.

5] As regards quantum of compensation, the evidence on record shows that the deceased was working as Sepoy in the military service. Therefore, the Tribunal has considered his income at

Rs.7,000/- per month and after deducting $1/3^{\text{rd}}$ therefrom towards his living and personal expenses and considering his age to be 23 years, with the multiplier of "12", granted compensation of Rs.7,15,912/-. Having regard to the age of his parents, the amount of compensation awarded by the Tribunal being just and desirable, no interference is warranted therein. Hence, appeal being without merit stands dismissed.

6] The amount of Rs.25,000/- is directed to be paid to appellant, if it is not adjusted in the amount of compensation.

7] In view of dismissal of Appeal itself, Civil Application No.1842 of 2017 filed by the claimant no more survives and the same is disposed off accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]