

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (STAMP) NO.8403 OF 2017
ALONG WITH
CIVIL APPLICATION NO.2141 OF 2017
AND
CIVIL APPLICATION NO.2143 OF 2017

National Insurance Company Ltd., Mumbai Appellant-Applicant
V/s.
Shrikant Narayan Mane and Ors. Respondents

ALONG WITH
CIVIL APPLICATION (STAMP) NO.5345 OF 2018
IN
FIRST APPEAL (STAMP) NO.8403 OF 2017

Shrikant Narayan Mane Applicant
In the matter between
National Insurance Company Ltd., Mumbai Appellant
V/s.
Shrikant Narayan Mane and Ors. Respondents

Mr. Rahul Mehta, I/by M/s. KMC Legal Venture, for the Appellant-Insurance Company.

Mr. Vaibhav R. Gaikwad for Respondent No.1 in FA(St.)/8403/2017 and for the Applicant in CAF(St.)/5345/2018.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 17TH OCTOBER, 2018.

P.C. :

1. Civil Application No.2141 of 2017 is filed for condonation of delay in preferring the First Appeal.

2. Learned Counsel for the Respondents has no objection in allowing the said Civil Application. Hence, for the reasons stated in the Civil Application, as sufficient cause is made out, the delay of 53 days in preferring the First Appeal is condoned. Civil Application is allowed.

3. By consent, the First Appeal is taken up for hearing forthwith.

4. Heard Mr. Mehta, learned counsel for the Appellant-Insurance Company, and Mr. Gaikwad, learned counsel for Respondent No.1.

5. Respondent Nos.2 and 3, though duly served with the notice of this Appeal, they have remained absent.

6. The only issue raised for consideration in this Appeal is, *'whether Respondent No.3 - the Car Driver, was having a valid license?'* The impugned 'Judgment' passed by the Trial Court goes to show that, the copy of the valid 'Driving License' was produced on record at 'Exhibit-33'. In view thereof and also considering the amount of Rs.4,42,000/-, which is awarded towards the compensation, being reasonable one and proper justification thereof is given in the 'Award', it has to be held that, the impugned 'Judgment' does not call for any interference.

7. Though learned counsel for the Appellant-Insurance Company

submits that, the ground of 'pay and recovery' was taken before the Tribunal, considering that the 'Driving License' was already produced on record, that ground no more survives.

8. In view thereof, the Appeal stands dismissed.

9. The amount of Rs.25,000/-, which is deposited by the Appellant-Insurance Company in this Court as a statutory deposit, be transferred to the concerned Tribunal.

10. In view of the dismissal of the Appeal, Civil Application No.2143 of 2017 and Civil Application (Stamp) No.5345 of 2018, do not survive and the same stand disposed off as infructuous.

[DR. SHALINI PHANSALKAR-JOSHI, J.]