IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1162 OF 2014
WITH
CIVIL APPLICATION NO. 3312 OF 2014

Shriram General Insurance Co. Ltd. ... Appellant
V/s.
Abdul Kalu Khan & Ors. ... Respondents

- Mr.Nikhil Mehta i/b. KMC Legal Venture for the Appellant.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 24th OCTOBER, 2018.

P.C. :

1] Heard learned counsel for the Appellant.

2] This is an Appeal preferred by the Insurance Company challenging the 'Judgment and Award' dated 17/01/2014 passed by the Motor Accident Claims Tribunal (MACT) Mumbai in Petition No. 3008 of 2010.

3] This Claim Petition pertains to the death of a child of 14 years of age. Respondent Nos.1 and 2 are the parents of the deceased and Respondent No.3 is the owner, whereas Respondent No.4 is the driver of the offending vehicle. The Tribunal has, after considering the age of the deceased and the relevant factors, awarded the compensation to Respondent Nos.1 and 2 of the amount of Rs.1,60,000/- inclusive of NFL amount, along with interest 7.5% p.m. from the date of application till its realization.

4] The main ground on which the Award is challenged is that the Insurance Policy produced in the case was fabricated, vague and bogus. However, to substantiate this contention, absolutely no evidence was adduced by the Appellant-Insurance Company.

5] In view thereof, in the Appeal, no fault can be found in the 'Judgment and Award' of the Tribunal fastening the liability on the Appellant-Insurance Company and, at the same time, giving liberty to the Appellant-Insurance Company to recover the said amount of compensation from the owner of the offending vehicle, namely, Respondent No.3 by following due process of law.

6] It is pointed out that the owner of the offending vehicle has not appeared in the Tribunal despite due service of notice and here in the Appeal also, he has not appeared. Otherwise also, only the Certificate is issued in favour of the Appellant-Insurance Company. If the compliance of the order passed by the Tribunal is made, then the Appellant-Insurance Company can recover the said compensation amount, only after following due process of law.

7] In view thereof, no interference is warranted in the impugned 'Judgment and Award' passed by the Tribunal. The Appeal therefore being without merit, stands dismissed.

8] The statutory amount of Rs.25,000/- deposited in this Court, if not transferred, be transferred to the concerned Tribunal along with accrued interest, if any.

9] In view of dismissal of the Appeal, nothing survives in the Civil Application, hence stands disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]