Sarnobat

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

FIRST APPEAL NO. 605 OF 2018
ALONGWITH
CIVIL APPLICATION NO. 1836 OF 2018

Reliance General Insurance Co. Ltd. ... Appellant.
Vs.
Bhusan Govind Joil & Ors. ... Respondents.

Ms. Shalini shankar, for the Appellant.

CORAM : V. M. DESHPANDE, J.
DATE : 17th JULY, 2018.

P. C. :

1. Heard the learned counsel for the appellant. The present appeal is directed against the judgment and award dated 21st September, 2017 passed by MACT, Thane in MACP No. 699 of 2014 by which impugned judgment the learned Judge of the Court below has directed the opponent No. 1 and 2 therein namely, the present appellant Insurance Company and the driver of the offending vehicle to pay jointly and severally an amount of Rs.5,05,846/- including no fault liability compensation, with interest at the rate of 8% per annum from the date of petition till realization of the amount.

2. Deceased is one Yash Joil a boy of 10 years. Unfortunately

parents of the deceased were required to approach before the Court for compensation. The said compensation petition was contested by the Insurance Company and the offending driver on all counts. The Insurance Company raised a plea that the deceased was abruptly came on road and accident occurred due to negligence on the part of deceased himself and the offending driver was not having a valid license.

3. Out of aforesaid two, only one submission was pressed before this Court by the learned counsel for the Insurance Company that at the relevant time, the driver of offending vehicle namely a motorcycle bearing No. MH-04-GG-3719 was not having valid license.

4. When the plea raised that the driver was not having the valid license it was for the Insurance Company to prove its claim before the Court below. However, for the reasons best known to the Insurance Company, the Insurance Company has not filed on record the investigators report nor has examined any person from RTO or from police department who has conducted investigation to point out that the person who was driving the vehicle was not holding valid license. Merely for denying the claim such plea was taken by the Insurance Company. In fact the Insurance Company ought not to have taken such plea when it is within their knowledge that they are unable to prove their case on that behalf. Hence, the order;

ORDER

I) Rejected.

II) All Civil Applications are rejected. The statutory amount deposited by the Insurance Company before this Court should be transferred to the Motor Accident Claims Tribunal, Thane.

[V. M. DESHPANDE,J.]