

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****FIRST APPEAL NO. 1655 OF 2019****The Divisional Manager,****Bharti AXA General Insurance Company Ltd. Appellant****VERSUS****Shweta Bibhishan Chavan & Ors.****..... Respondents**

Mr.Nikhil Mehta, a/w. Mr.Rahul Mehta, i/b. M/s.KMC Legal Venture
for the Appellant/Applicant.

Mr.Rahul B. Vijaymane for the Respondents/Applicant in
CAF/3753/2019.

CORAM : R.D. DHANUKA, J.**DATE : 28th NOVEMBER, 2019****P.C.**

By this first appeal, the appellant (original opposite no.2) has impugned the judgment and award dated 13th April,2018 passed by the M.A.C.T. in M.A.C.P.No.39 of 2014 allowing the claim made by the original applicant partly and directing the appellant and three others jointly and severally to pay the claimant the compensation of Rs.1,15,240/- with simple interest at the rate of 9% per annum from the date of petitioner till full realization.

2. By consent of parties, the appeal is heard finally.

3. Mr.Mehta, learned counsel for the appellant invited my attention to some of the findings rendered by the Tribunal in paragraphs 12 to 18 and would submit that the driver of the offending vehicle did not have valid licence to drive the tractor attached with trailers and thus there was breach of the terms and conditions of the insurance policy. The appellant was thus not liable to make any payment.

4. A perusal of the judgment and order passed by the M.A.C.T. clearly indicates that the Tribunal has rightly adverted to the principles of law laid down by Supreme Court in case of ***Mukund vs. Oriental Insurance Company, AIR 2017 SC 3668*** and has rightly rejected this contention raised by the appellant before the Tribunal.

5. In my view, the principles laid down by the Supreme Court in the said judgment are applicable to the facts of this case and has been rightly applied to the facts of this case by the Tribunal.

6. Mr.Mehta, learned counsel for the appellant did not distinguish the said judgment of the Supreme Court.

7. Insofar as quantum is concerned, the Tribunal has rightly awarded the quantum based on the evidence led before the tribunal. I do not find any infirmity with that part of the judgment and award. Mr.Mehta, learned counsel for the appellant could not point out any infirmity insofar as quantum is concerned.

8. Appeal is devoid of merits and is accordingly dismissed. No order as to costs.

9. Office is directed to transmit the statutory deposit of Rs.25,000/- deposited by the appellant to the concerned M.A.C.T. expeditiously.

[R.D.DHANUKA, J.]