

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

**FIRST APPEAL NO.1354 OF 2002**

Oriental Insurance Co. Ltd. ...Appellant

Versus

Abdul Rehman Sadulla (deceased)  
through L.H.

1) Noor Mohmmad Abaddul

Rahiman Shaikh and Ors.

...Respondents

.....

Ms Ruchita Dave I/b. Mr. A.S. Vidyarthi for the Appellant.

Mr. Siddharth Chapalgaonkar I/b. Mr. Nitin P. Deshpande for the  
Respondent No.1(E).

**CORAM : SMT. ANUJA PRABHUDESSAI, J.**

**DATED: 3<sup>rd</sup> SEPTEMBER, 2019.**

**P.C.:-**

The Appellant herein has challenged the judgment and award dated 30<sup>th</sup> March, 2002 passed in Claim Petition No.659 of 1993 by the M.A.C.T., Pune. By the impugned judgment, the Claims Tribunal, Pune, has awarded compensation of Rs.47,500/- with interest @ 9% per annum from the date of petition till final realisation.

2. The Respondent Nos.1 to 5 are the legal representatives of deceased Abdul Rehman Sadula, who shall be hereinafter referred to as the Claimants. The case of the Claimants is that the deceased Abdulla

was the owner of house No.75, within the municipal limits of Valvan (Lonavala). On 27/9/1992 one truck bearing registration No.MHD-5721 dashed against front wall of his house as a result the front wall as well as roof of the house collapsed. Said truck No.MHD-5721 was loaded with explosives. As a result of the accident, the deceased sustained loss to the tune of Rs.50,000/-. It was alleged that the said truck was owned by the Respondent No.6 and insured by the Appellant-Insurance Company. The case of the Claimants was that the accident was caused due to rash and negligent driving of the driver of the truck. Hence, the deceased-Abdulla filed petition claiming compensation of Rs.50,000/-.

3. The Appellant-Insurance Company had admitted that the offending vehicle was insured at the time of the accident. The Appellant-Insurance Company, however, claimed that their liability is restricted to the tune of Rs.6,000/- under the provision of the Motor Vehicles Act, 1988.

4. The Tribunal after considering the evidence on record has held that the Appellant-Insurance Company has not established that its liability was restricted to Rs.6,000/-. By the impugned judgment, the

Tribunal directed the Appellant-Insurance Company along with the insured and the driver to jointly and severally pay compensation of Rs.47,500/- to the claimant. Being aggrieved by this order, the Appellant-Insurance Company has filed this appeal.

5. The learned counsel for the Appellant contends that the Appellant is not liable to pay Rs.47,500/- as its liability was restricted to Rs.6,000/-. She submits that the insured had paid premium of only Rs.1,245/-, which fact would indicate that their liability is restricted to Rs.6,000/-.

6. The Tribunal has observed that Sandip Mahajani, the witness examined by the Appellant-Insurance Company has deposed that the vehicle bearing MHD-5721 was insured with the Appellant-Insurance Company during the period from 17<sup>th</sup> February, 1992 to 16<sup>th</sup> February, 1993. The Tribunal has further observed that contrary to the defence set up, the witness has admitted that it was a third party policy. The Tribunal has further held that though the Appellant-Insurance Company had raised a specific defence that the policy was 'Act policy', it had not produced copy of the insurance policy and only produced a certificate of insurance at Exhibit-37. In view of the above

discrepancies, the Tribunal disbelieved the defence and directed the Appellant and the insured to pay the compensation. The learned counsel for the Appellant has not been able to show that the findings are not based on and /or are contrary to the evidence on record. The Tribunal has therefore in my considered view rightly drawn adverse inference against the Appellant-Insurance Company. Considering the beneficial nature of the Act, the Tribunal has directed the Appellant-Insurance Company to pay compensation of Rs.47,500/-to the Respondents-Claimants. I do not find any justifiable reasons to interfere with the impugned judgment. The appeal has no merits and is accordingly dismissed.

Megha  
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(SMT. ANUJA PRABHUDESSAI, J.)