IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 282 OF 2012

The Divisional Manager,
Bajaj Allianz General Insurance Co. Ltd. ..Appellant

v/s.

Shri Vishwanath Ramsamuj Sahani & Anr. ..Respondents

Mr. Devendranath S. Joshi for the Appellant.
None for the Respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 11th SEPTEMBER, 2019.

P.C.

1. The appellant insurance company has challenged the impugned judgment and award dated 7.4.2011 passed by the learned Member of MACT, Thane. In MACT Application No. 368 of 2008. By the impugned judgment and award the Claims Tribunal has awarded compensation of Rs.91,240/- with interest @ 7.5% p.a. from the date of petition till its realization.

2. The learned Counsel for the appellant insurance company states that the challenge is restricted only to the issue of breach of terms

and conditions of the policy. He contends that the driver of the offending vehicle was not holding a valid and effective driving license, and hence the insurance company is not liable to indemnify the insured.

3. The appellant insurance company has not adduced any evidence to prove that the driver of the offending vehicle was not holding a valid and effective driving license and or that the insured had committed breach of terms and conditions of the policy. The only material relied upon by the appellant insurance company is the FIR and the chargesheet filed against the driver of the offending vehicle. Suffice it to say that mere filing of FIR and chargesheet cannot be construed as or equated with proof of the offence. In the absence of any material to prove that the driver of the offending vehicle had driven the vehicle without a valid driving license the appellant insurance company cannot be absolved of its liability. The appeal has no merits and is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)