IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1390 OF 2015

M/s National Insurance Co. Ltd. … APPELLANT

VERSUS

Rohidas s/o Baburao Rathod & ors. … RESPONDENTS

....

Shri V.N. Upadhye, Advocate for appellant
Shri V.P. Sawant, Advocate for respondents No.1 and 2

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CORAM : R. G. AVACHAT, J.

DATE : 16th September, 2021

O R D E R :

This is Insurance Company's appeal, challenging the judgment and award dated 20/1/2015, passed by Member, Motor Accident Claims Tribunal, Beed in Motor Accident Claim Petition no.14/2012, granting compensation on account of death of a three year old child in a vehicular accident. Under the impugned judgment and award, a sum of Rs.2,00,000/- only with interest @ 8% p.a. from the date of the petition to the date of realisation of the said amount has been awarded.

2. Heard. Perused the appeal memo to find that the challenge is only on the ground that the driver of the truck involved in the accident was alleged to have had not held valid and effective driving licence to drive the same.

3. It so happened that the respondents No.1 and 2 were working as sugarcane harvesters. On the ill-fated day, they were engaged in cutting of sugarcane and loading it in the truck (MH-31/CB-575). Their three year old child, Rohit was resting on the ground just by the side of the truck. After sugarcane harvesting was over at that particular place, the truck driver (respondent No.4) started backing up the truck. He did not notice presence of Rohit. The truck ran over Rohit. Rohit died on the spot. His parents, therefore, preferred the petition for compensation. The appellant Insurance Company resisted the same interalia on the ground that the truck driver (respondent No.4) did not hold valid and effective driving licence to drive the same.

4. On close scrutiny of the evidence in the case, it does appear that, the driving licence of the respondent No.4 (Exh.45) was placed on record. It is evident therefrom that, he was permitted to drive heavy transport vehicle. The

appellant Insurance Company did place on record of the Tribunal another driving licence (Exh.51) to indicate the respondent No.4 had been allowed to drive LMV (non transport). The Tribunal has rightly found that the driving licence produced by the appellant Insurance Company did not contain full particulars thereof nor did it discharge its burden to prove its defence. The same status remained in this appeal as well. As such, the appellant Insurance Company failed to make out a case for interference with the impugned judgment and award.

5. In the result, the appeal fails. Same is dismissed.

(R. G. AVACHAT)
JUDGE

fmp/-