



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

**FIRST APPEAL NO. 1192 OF 2022
WITH
INTERIM APPLICATION NO. 19314 OF 2022
IN
FIRST APPEAL NO. 1192 OF 2022**

Reliance General Insurance Co. Ltd. Appellant
v/s.
Bijali Soma Sambar and ors. Respondents

Mr. Pandit Kasar for the Appellant/Applicant.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 24th AUGUST, 2023.

P. C. :-

. This is an Appeal under section 173 of Motor Vehicles Act filed by the Appellant – Insurance Company challenging the impugned judgment and award dated 24/11/2021 passed by the Member, MACT, Palghar in M.A.C.P No.41/2019.

2. The Respondent Nos.1 to 5 had filed a Claim Petition under section 166 of Motor Vehicles Act claiming compensation in view of death of Soma Mahadu Sambar in a motor vehicular accident involving motor cycle bearing No.MH-48/BG-1396, which was insured by the Appellant – Insurance Company. It is the case of the Claimants that the

accident was caused solely due to rash and negligent driving by the driver of the motor cycle. The deceased was a laborer earning Rs.15,000/- per month. It is stated that the Claimants were solely dependent on the income of the deceased and hence they filed Claim Petition seeking compensation of Rs.20,00,000/-.

3. The Tribunal, after considering the evidence adduced by the respective parties, held that the accident was caused solely due to rash and negligent driving by the driver of the offending vehicle. The Tribunal awarded compensation of Rs.6,05,000/- to the Claimants with interest @ 6% from the date of filing of the petition till final realization.

4. Mr. Pandit Kasar, learned counsel for the Appellant – Insurance Company submits that the challenge is restricted to the liability of the Insurance Company to indemnify the insured in view of breach of terms and conditions of the policy. He contends that the rider of the motor cycle was not holding valid and effective driving license and as such the Appellant is not liable to indemnify the insured.

5. The Appellant – Insurance Company has sought to prove this

defence through its officers – Mr. Ravi Jiandani. He has relied upon the charge sheet filed against the rider – Raju Varkhande to contend that the rider was not holding valid and effective driving license. It is pertinent to note that the Tribunal has observed that the rider of the motor cycle was not charged for driving the vehicle without holding valid and effective driving license. Besides, filing of charge sheet is not proof of commission of any offence, including the offence under the Motor Vehicles Act.

6. In view of the above, Appeal has no merits and is accordingly dismissed. Interim Application stands disposed of in view of disposal of the Appeal.

(SMT. ANUJA PRABHUDESSAI, J.)