

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 149 OF 2021**

National Insurance Company Limited

....Appellant

Versus

Sunil @ Sunilkumar Ramchandra Rajmane
@ Rajmani and ors.

....Respondents

Mr. P. A. Narayanan, Advocate for the Appellant.

Mr. Shekhar Mane i/b. Mr. Kedar P. Lad, Advocate for Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 28th NOVEMBER, 2023.

P.C. :

1. By this appeal, appellant-Insurance Company has impugned the judgment and order passed by Motor Accident Claims Tribunal, Kolhapur (for short "the Tribunal").

2. It is the contention of learned counsel for appellant that there was no fitness certificate to ply the offending vehicle on road but this fact is not considered by the Tribunal. There was breach of terms and conditions of Insurance Policy. The accident occurred due to rash and negligent act of respondent No.1 only But these facts are not considered by the Tribunal and wrongly concluded that appellant is entitled to pay compensation which is erroneous. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.1/claimant that appellant has not examined any witness to prove that

there was breach of terms and conditions of Insurance Policy. The Tribunal has considered all the aspects and on that basis, the judgment and order is passed which is legal and valid.

4. I have heard both learned counsel, perused the judgment and order passed by the Tribunal.

5. The issues involved in this appeal are that there was breach of terms and conditions of insurance policy and no fitness certificate to ply was given to the offending vehicle. Appellant has not examined any witness to prove these issues before the Tribunal nor produced any documents in support of its contentions before the Tribunal. Without any evidence, appellant cannot substantiate their contention. The Tribunal has considered all the aspects while passing the judgment and order. Considering these facts, the appeal is devoid of merit and I pass following order :

O R D E R

1. Appeal is dismissed.
2. Respondent No.1/claimant is permitted to withdraw the amount deposited by the appellant.

(SHIVKUMAR DIGE, J.)