

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.623 OF 2013**

Thane Municipal Corporation,	)	Appellant
Road No. 34, Wagle Estate,	)	(Orig. Opponent)
Thane (W) 400 604,	)	
(Owner of the TMT Bus)	)	

Versus

Harishikesh Sudhakar Thakare	)	...Respondents
Age : 26, Occ : Student,	)	(Orig. Claimant)
R/at. 208, New Sai Pooja CHS,	)	
Kharegaon, Pakhadi,	)	
Behind Sanam Building,	)	
Post Kalwa, Dist : Thane	)	

Mr. Mandar Limaye, Advocate for the Appellant.
Ms. Rina Kundu, Advocate for Respondent/Claimant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 26TH APRIL, 2023.

Oral Judgment :

1. The issue involved in this appeal is the claimant was not holding effective and valid driving license at the time of accident. There was contributory negligence of the claimant in the accident but it was not considered.

2. It is the contention of learned counsel for the appellant that the claimant was riding motorcycle when the offending bus gave dash to his motorcycle. The Tribunal has observed that the claimant who was riding motorcycle was not holding effective and valid driving license at the time of accident, there was contributory negligence of the claimant in the said accident, but in spite of that, Tribunal has fixed liability on the appellant who is the owner of the offending bus. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the claimant that in companion matter, the Tribunal has considered that the accident occurred due to negligence of the driver of the offending bus. There was no negligence of the claimant in the said accident, hence, the order passed by the Tribunal is legal and valid. Learned counsel for the claimant relied on the decision of the Hon'ble Apex Court in the case of **Sudhir Kumar Rana versus Surinder Singh and Ors. (2008) 12 SCC 436.**

4. I have heard both learned counsel, perused the judgment and order passed by the Motor Accident Claims Tribunal, Thane, (for short "the Tribunal").

5. Admittedly, in the cross-examination, the claimant has admitted that he was not holding effective and valid driving license at the time of the accident for riding the motorcycle. The Tribunal has observed that the accident occurred due to sole negligence of the driver of the offending bus. In companion matter, the Tribunal has held that the driver was responsible for the accident. In my view, if the accident occurred due to sole negligence of the driver of the offending bus, in that case, the issue of not holding valid and effective driving license by the claimant would not arise. The Hon'ble Apex Court in the case of **Sudhir Kumar Rana (Supra)** has held that if a person drives a vehicle without a license, he commits an offence. The same, by itself, in our opinion may not lead to finding of negligence as regards the accident. The facts of the cited case are squarely applicable to the present case.

6. In view of above, I pass the following order :

ORDER

1. The appeal is dismissed. No order as to cost.
2. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

3. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)