



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 587 OF 2023

United India Insurance Company Limited .Appellant

Vs.

Shri Dattatraya Tukaram Nagane & ors. .Respondents

WITH
INTERIM APPLICATION NO. 1492 OF 2023
IN
FIRST APPEAL NO. 587 OF 2023

Shri Dattatraya Tukaram Nagane .Applicant

IN THE MATTER OF

United India Insurance Company Limited .Appellant

Vs.

Shri Dattatraya Tukaram Nagane & ors. .Respondents

Mr. Rahul Mehta i/b. KMC Legal Venture, Advocate, for the
Appellant

Mr. Ajay A. Joshi, Advocate, for the Respondents

CORAM : ANUJA PRABHUDESSAI, J.

DATE : 30.08.2023

P. C.

. With consent heard finally at the stage of admission.

2. This is an Appeal filed under Section 173 of the Motor
Vehicles Act against the impugned Judgment and Award dated

22.03.2022 passed by the Member, Claims Tribunal, Pandharpur, District - Solapur in M.A.C.T.No. 20 of 2016. By the impugned Judgment and Award, the Claims Tribunal awarded compensation of Rs. 3,00,000/- with interest at the rate of 6% per annum towards damages caused to the vehicle.

3. Respondent No. 1, who is the Original Claimant had filed a Claim Petition under Section 166 of the Motor Vehicles Act seeking compensation in view of damages caused to the vehicle bearing registration No. MH-13/AC-6062 in an accident involving a Milk Van bearing registration No. MH-11/AL-4127 which was insured with the Appellant herein. The Claimant had alleged that the accident was caused solely due to rash and negligent driving by the driver of the offending vehicle. The Claimant had stated that the vehicle was totally damaged and thus, claimed a compensation of Rs. 4,00,000/-.

4. The Appellant and other Respondents denied that the accident was caused due to rash and negligent driving by the driver of the offending vehicle. They also disputed the quantum of the compensation claimed by the Claimant.

5. The Claims Tribunal upon considering the evidence on record awarded compensation of Rs. 3,00,000/- with interest at the rate of 6% per annum from the date of the Petition till final realization.

6. Mr. Mehta, learned counsel for the Appellant disputes involvement of the Milk Van bearing registration No. MH-11/AL-4127 in the said accident. He further submits that the accident was caused due to rash and negligent driving by the driver of the Bolero Jeep. He submits that the compensation awarded by the Tribunal is exorbitant and is not based on the evidence on record.

7. Per contra, learned counsel for the Respondents submits that Respondent No. 3, the owner of the vehicle had not disputed involvement of the vehicle in the accident. He further submits that driver of the vehicle has been held guilty of the offence punishable under Section 279 of the Indian Penal Code which proves not only the involvement of the vehicle in the said accident but also proves the issue of negligence. He further submits that the quantum of compensation awarded by the Tribunal based on evidence on record and the same is just and

reasonable.

8. I have perused the record and considered the submissions advanced by learned counsel for the respective parties .

9. The accident between Bolero Jeep driven by son of the Claimant and Milk Van bearing registration No. MH-11/AL-4127 is not in dispute. The offending vehicle purchased by Respondent No. 2 on loan was seized and sold by the Finance Company for non-payment of dues. Respondent No. 3, the purchaser of the offending vehicle has admitted involvement of the vehicle in the accident. Moreover, the driver of the said vehicle has been held guilty for the offences punishable under Sections 279, 304(a), 337, 338, 427 of the Indian Penal Code and under Section 184 of the Motor Vehicles Act. The aforesaid evidence amply proves that the Milk Van was involved in the accident and that the accident was caused due to rash and negligent driving by the driver of the offending vehicle.

10. The Claimants claimed compensation of Rs. 4,00,000/- towards damages caused to the Bolero Jeep. The Claimants had relied upon panchnama (Exh. 46) which shows

that the vehicle was extensively damaged. PW.2 - Rafik s/o. Chandsaheb Jamuna has deposed that the said vehicle was repaired at Singh Garage, Belgaon and the total repairing cost is Rs. 4,30,000/-. Relying upon the evidence of PW.2 as well as Exh. 69, and considering the fact that the vehicle was extensively damaged, the Tribunal has awarded compensation of Rs. 3,00,000/- which in my considered view appears to be just and reasonable and does warrant any interference. Hence, the Appeal stands dismissed.

11. The compensation deposited by the Appellant - Insurance Company with the Claims Tribunal be paid to the Claimants along with interest accrued thereon. Statutory deposit of Rs. 25,000/- be transferred to the Claims Tribunal, Pandharpur, District - Solapur.

12. In view of disposal of the Appeal, the I. A. No. 1492 of 2023 does not survive and same stands disposed of accordingly.

(ANUJA PRABHUDESSAI, J.)