

AGK

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

FIRST APPEAL NO.17 OF 2019

Reliance General Insurance Co. Ltd.,
through its Corporate Office ... Appellant

V/s.

Rekha Dhiren Pawale & Ors. ... Respondents

Mr. Rahul Mehta i/by KMC Legal Venture for the
appellant.

Mr. Saurabh V. Patil for respondent no.6.

Digitally
signed by
ATUL
GANESH
KULKARNI
Date:
2023.01.09
10:25:09
+0530

CORAM : AMIT BORKAR, J.

DATED : JANUARY 7, 2023

P.C.:

1. The insurance company has filed present first appeal challenging judgment and award dated 31st July 2018 passed by the learned Additional Member, Motor Accident Claims Tribunal in MACP No.23 of 2016. The Tribunal by the impugned order directed opponent no.2/insurance company to pay compensation of Rs.37,91,700/- including no fault liability along with interest at the rate of 8% per annum from the date of the petition till its realization. The Tribunal directed opponent no.2 to deposit the amount, which, according clause 2(i) entitle the company to recover it from opponent no.1. Learned advocate for the insurance company has invited my attention to issue nos.3 and 4 and submitted that the Tribunal was not justified in answering the said issues in favour of the claimant.

2. On perusal of the defense raised by the company, it appears that the only defense raised before the Tribunal was to the effect that on the date of accident the driver was holding license to ply Light Motor Vehicle whereas the truck which he was driving comes under Heavy Goods Vehicle and the driver was not holding proper license to drive the Heavy Goods Vehicle.
3. The said issue is no longer *res integra* in view of the judgment of the Apex Court in **Manager, United India Insurance Co. Ltd. v. Kamalabai Mukunda Kumare & Ors.** Reported in 2012 ACJ 1011
4. The next submission made on behalf of the appellant is in relation to the payment of 40% of the future income. In view of the judgment of the Apex Court in the case of **National Insurance Co. Ltd. v. Pranay Sethi** reported in (2017) 16 SCC 680 the said issue is also covered.
5. Since both the issues involved are covered by the judgment of the Apex Court, there is no merit in the first appeal.
6. The first appeal stands dismissed. No costs.
7. It is made clear that the appellant shall be entitled to recover the amount as per clause 2(i) of the award.
8. The amount of Rs.25,000/- deposited in this Court shall be transmitted to the Tribunal.
9. The amount deposited by the company shall be paid to the claimants.

(AMIT BORKAR, J.)