



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 2789 OF 2024 IN FA/3493/2023

KAKASAHEB BHIMRAO GAIKWAD
VERSUS
MAHADEV SHRIRANG ZOMBADE AND ANOTHER

...
Advocate for Applicant : Mr. S. B. Choudhari
Advocate for Respondent No.2 : Mr. D. P. Deshpande (through V.C.)
...

CORAM : S. G. MEHARE, J.

DATE : 03-05-2024

PER COURT :-

1. Heard the learned counsel for the applicant and learned counsel for respondent No.2/insurer.
2. Respondent No.2/insurer, who has been saddled with liability, has strongly opposed the application contending that the driver of the offending vehicle was holding no valid license. Therefore, the insurance company is not liable to pay. The Regional Transport Officer was examined and it was established that the driver of the insured vehicle was having no valid driving license. This is a fit case for exonerating the insurer from liability. However, this aspect has not been considered.
3. Learned counsel for the applicant submits that the claim is a third party having no concern with insurer and insured. The

offending vehicle insured with the insurance company has caused the accident. Out of compensation Rs.7,00,000/-, the amount of Rs.3,75,000/- has been spent on medication.

4. The grounds raised by the learned counsel for respondent No.2/insurer would be considered on merit.

5. It is a simple case of injury, granting a small amount Rs.7,00,000/-, out of which Rs.3,75,000/- have been spent on medication. Who is liable to pay would be determined on merit. Whether this is a fit case to pay and recover can also be considered only at the time of hearing of the appeal on merits. The applicant is a third party. He should not be deprived of his right to get compensation. Hence, the order;

ORDER

- i) The application is allowed.
- ii) The applicant is permitted to withdraw the entire amount deposited with this Court with interest on furnishing undertaking to deposit money, if the impugned judgment and award is reversed.
- iii) List the appeal on 01.08.2024.

(S. G. MEHARE)
JUDGE