IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1000 OF 2023

United India Insurance Co. Ltd., }
Alibag Division, Behind Alibag S.T. Depot, }
Alibag, District-Raigad. } **...Appellant**

Versus

1. Dilip Ravindra Shelar }
Age-26 years, Occ : Service, }
R/o.Riddhi Siddhi Soc., B-604, Sector }
No.14, Kamothe, Taluka-Panvel, }
District-Raigad. }

2. Shashikant Amin }
R/o.Patni House No.10, Evershine City, }
Vasai (E), District-Thane-401 208. } **...Respondents**

Ms.Varsha Chavan, for the Appellant.
Ms.Rina Kundu, for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th MARCH 2024

ORAL JUDGMENT :-

. The issues involved in this Appeal is pay and recover order is passed by the Tribunal.

2. It is contention of the learned counsel for the

Appellant-Insurance Company that, there was breach of Terms of Conditions of the Insurance Policy as the driver of the offending vehicle was not holding effective and valid driving license and there was no permit. The Tribunal should have exornated Insurance Company from paying the compensation but Tribunal has passed pay and recover order, which is erroneous. The learned counsel further submitted that multiplier should not have been applied for 30% disability, it is erroneous. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, it is settled principle of law, if there is breach of Terms and Conditions of the Insurance Policy. The Insurance Company has to pay compensation and recover it from the owner of the vehicle. The Tribunal has considered all the aspects while passing the judgment and order, no interference is required in it. Hence requested to dismiss the Appeal.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Alibag, District-Raigad.

5. While dealing with the issue of driving licenses and permit the Tribunal has observed the special permit of the bus was for 10th August 2014 to 15th August 2014. Accident occurred on 18th August 2014, so on the date of the accident there was no permit. On that ground the Tribunal has held that there was no permit on the date of the accident and has passed pay and recover order. I do not find infirmity in it.

6. In my view it is settled principle of law that, when there is breach of Terms and Conditions of Insurance Policy. The Insurance Company has to pay compensation and recover it from owner of the vehicle. The Claimant has suffered 30% permanent physical disability, hence, application of multiplier is proper.

7. In view of above, I pass following order.

ORDER

(i) The Appeal is dismissed.

(ii) The Claimant is permitted to withdraw the deposited amount alongwith interest.

(iii) The statutory amount alongwith interest be transferred to the Tribunal. Parties are at liberty to withdraw it, as per Rules.

(iv) The Appellant-Insurance company is at liberty to recover the compensation amount alongwith interest as fixed by the Tribunal from owner of the vehicle.

(v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)