

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.176 OF 2024

1. The National Insurance Co. Ltd }
RO II Sterling Building, 5th Floor, }
Murzbaan Fort, Mumbai-400001. } ...Appellants

Versus

1. Miss.Vandana Yuvraj Pawar }
Age-25 years }
R/o. Building No.L-4, Room No.401, }
4th Floor, Lok Kedar, Near Cement }
Company, Jata Shankar Dosa Marg, }
Mulund (W), Mumbai-400081. }
2. Mr.Prashant S. Bansode }
R/at Shantinagar, Yerwada, Pune-411 006 } ...Respondents

WITH

FIRST APPEAL NO.177 OF 2024

1. The National Insurance Co. Ltd }
RO II Sterling Building, 5th Floor, }
Murzbaan Fort, Mumbai-400001. } ...Appellants

Versus

1. Miss.Anita Mukund Gawade }
Age-24 years }
R/o. Damu Nagar, Near Vijay Niwas, }
Akurli Road, Kandivali (E), Mumbai }
2. Mr.Prashant S. Bansode }
R/at Shantinagar, Yerwada, Pune-411 006 } ...Respondents

WITH

FIRST APPEAL NO.178 OF 2024

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2024.03.14
11:29:09 +0530

1. The National Insurance Co. Ltd }
RO II Sterling Building, 5th Floor, }
Murzbaan Fort, Mumbai-400001. } **...Appellants**

Versus

1. Miss.Bhumika Narendra Patel }
Age-18 years }
R/o. Hutment, Keshav Pada, Shastri }
Nagar, Mulund, Mumbai }
2. Mr.Prashant S. Bansode }
R/at Shantinagar, Yerwada, Pune-411 006 } **...Respondents**

**WITH
FIRST APPEAL NO.46 OF 2024**

1. The National Insurance Co. Ltd }
RO II Sterling Building, 5th Floor, }
Murzbaan Fort, Mumbai-400001. } **...Appellants**

Versus

1. Mr.Jalinder @ Arjun Mohan Shirsat }
Age-27 years }
R/o. Room No. 1/B, Shivshrishti Society, }
Plot No.9, Gate No.8 Mahada Colony, }
Malvani, Malad (W), Mumbai. }
2. Mr.Prashant S. Bansode }
R/at Shantinagar, Yerwada, Pune-411 006 } **...Respondents**

Ms.Poonam Mital, for the Appellants in All Appeals.

Ms.Ketki Gokhale i/b Mr.A.M. Gokhale, for Respondent No.1 in all Appeals.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th FEBRUARY 2024

ORAL JUDGMENT :-

. All these Appeals are preferred by the Appellant-Insurance Company against the judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Mumbai. As all these Appeals are out of the same accident, hence, I am deciding it by this common judgment.

2. It is contention of the learned counsel for the Appellant that, the driver of the offending vehicle was not holding effective and valid driving licenses at the time of the accident, but the Tribunal has not considered this fact. The learned counsel further submitted that in all these Appeals the Tribunal has awarded compensation on higher side. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent No.1-Claimant that, the Tribunal has considered all the aspects while passing judgment and order. Hence, no interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Tribunal.

5. Though the Appellant-Insurance Company has taken defence that, at the time of the accident driver of the offending vehicle was not holding effective and valid driving licenses, but witness from RTO Office has not been examined to prove the said fact. Without any evidence this Court cannot consider the defence taken by the Appellant-Insurance Company. Hence, I do not see merit in the contention that, at the time of the accident driver of the offending vehicle was not holding effective and valid driving licenses. It is contention of the learned counsel for the Appellant-Insurance Company that, the Tribunal has awarded compensation on higher side.

6. In all these Appeals the Claimant's have suffered 31 % disability and it is Claimant's case that they were earning Rs.5,000/-. On that basis the Tribunal has awarded compensation of Rs.1,70,000/- in First Appeal No.177 of 2024, Rs.1 lakh each in First Appeal No.176 and 178 of 2024 and Rs.2 lakh in First Appeal No.46 of 2024 respectively. I do not find infirmity in it. As while awarding compensation the Tribunal has considered evidence on record and nature of disability.

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

ORDER

- (i) The all Appeal's are dismissed.
- (ii) The Respondents-Claimants in all Appeals are permitted to withdraw the amount deposited by the Appellant along with accrued interest thereon.
- (iii) The statutory amount in all Appeals alongwith interest be transferred to the Tribunal. Parties in all respective Appeals are at liberty to withdraw it, as per Rules.
- (iv) In First Appeal No.46 of 2024, the learned counsel for Respondent-Claimant undertakes to file Vakalatnama for Respondent No.1.
- (v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)