

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.17840 OF 2023
IN
FIRST APPEAL (ST.) NO.31768 OF 2023
WITH
INTERIM APPLICATION NO.11721 OF 2024
IN
FIRST APPEAL (ST.) NO.31768 OF 2023
AND
INTERIM APPLICATION NO.17841 OF 2023
IN
FIRST APPEAL (ST.) NO.31768 OF 2023

SBI General Insurance Company
Limited, Mumbai. ...Appellant/Applicant
vs.
Mr. Mitaram Ramlal Jangid and ors. ...Respondents

WITH
INTERIM APPLICATION NO.11719 OF 2024
IN
FIRST APPEAL (ST.) NO.31768 OF 2023

Mr. Mitaram Ramlal Jangid and anr. ...Applicants

In the matter between :

SBI General Insurance Company
Limited, Mumbai. ...Appellant
vs.
Mr. Mitaram Ramlal Jangid and ors. ...Respondents

Ms. Shalini Shankar, Advocate for the Respondent in IA No.11719 of 2024 and for the Appellant/Applicant in other IAs.

Mr. Devendranath S. Joshi i/by Ms. Varsha Chavan, Advocates for the Applicants No.1 and 2 in IA No.11719 of 2024 and for the Respondents in other IAs.

CORAM : S. M. MODAK, J.

DATE : 10th OCTOBER 2024

P. C. :-

**INTERIM APPLICATION NO.17840 OF 2023
IN
FIRST APPEAL (ST.) NO.31768 OF 2023**

1. Heard Ms. Shalini Shankar, learned Advocate for the Insurance Company and Mr. Devendranath S. Joshi, learned Advocate for the Respondents No.1 and 2.
2. There is a delay of 54 days in filing an Appeal. It is opposed on behalf of the contesting Respondents.
3. For the reasons stated in the Application, the Application is allowed in terms of prayer clause (a).
4. Accordingly, Interim Application is disposed of.

FIRST APPEAL (ST.) NO.31768 OF 2023

5. Heard both the sides.
6. Issue notice to the Respondents No.1 and 2. It is waived. Let the copy of the appeal memo be served on them.
7. Respondent No.3 is the owner of the offending vehicle. There are no statutory defences taken by the Tribunal. It is like absence of policy or breach of policy. **Notice of Respondent No.3 is waived.**
8. Call record and proceedings.
9. Compilation be filed before the next date.
10. Matter be kept on **19th December, 2024.**

**INTERIM APPLICATION NO.11721 OF 2024
IN
FIRST APPEAL (ST.) NO.31768 OF 2023**

11. Heard both the sides.
12. The Claimants have examined a witness to prove the income. Even the income tax details were filed in this regard. Appellant contended that this income is not reflected in HDFC Bank statement and Axis Bank statement. According to them, they ought to have

considered this aspect. Inadvertently, this grounds were not taken in the appeal memo. This Application for amendment is opposed.

13. Application is allowed in terms of prayer clause (a).

14. Amendment be carried out within two weeks. The amended copy be served on the learned Advocate for the contesting Respondents.

**INTERIM APPLICATION NO.11719 OF 2024
IN
FIRST APPEAL (ST.) NO.31768 OF 2023**

15. Heard both the sides.

16. One of the ground of the Appeal is the two bank statements were not considered by the Tribunal and the income is arrived at.

17. My attention is invited to the findings in paragraph No.17 of the impugned award. According to learned Advocate Mr. Joshi for the Applicants when there are income tax returns, they need to be given more weightage. What will be the effect of not considering the bank statements, can be decided when the appeal will be heard.

18. The Claimants are the parents of the deceased. 50% withdrawal is permitted. Hence, order.

ORDER

- (i) The Respondents No.1 and 2 are permitted to withdraw 50% of the deposited amount alongwith interest on furnishing an undertaking.
- (ii) Interim application is disposed of.

[S. M. MODAK, J.]