

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

**FIRST APPEAL NO. 630 OF 2022**

SHANTANU  
SHANKARSA  
DHUDUM

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by SHANTANU  
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Date:  
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The New India Assurance Co. Ltd. ]  
Branch Officer, Solapur. ]  
Through Mumbai Legal Hub, ]  
41-B, 4<sup>th</sup> Floor, Maker Tower – E, ]  
Near World Trade Centre, Cuffe Parade, ]  
Mumbai – 400005. ]...Appellant  
(Orig. Insurer)

**Versus**

1. Tanaji Jagannath Survase ]  
Age 51 years present, Occ: Nil ]Original  
R/o. Kuranwadi, Tal. Mohol, Dist. Solapur. ]Claimants

2. Maruti Narsu Mali ]FA stand dismissed  
Age: 41 years present, Occ: Business, ]against Res. No.2  
R/o. Modnimb, Tal. Madha, Dist. Solapur ] vide RJ-II order  
dated 22/10/24.  
...Respondents

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Mr. Devendranath S. Joshi, Advocate for the Appellant – Insurance Company.  
Mr. Rohan H. Barge, Advocate for the Respondents.

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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 8<sup>th</sup> DECEMBER, 2025.**

**ORAL JUDGMENT. :**

1. This appeal is preferred by the Appellant – Insurance Company against the judgment and order passed by the Motor

Accident Claims Tribunal, Solapur (for short, “the Tribunal”).

2. It is contention of learned for the Appellant – Insurance Company that there is delay of nine years in filing the claim petition and the driver of the offending vehicle was not holding effective and valid driving licence, but these facts are not considered by the Tribunal and requested to allow the appeal.

3. It is contention of learned counsel for the Respondent No.1 – Claimant that, due to accidental injuries, the Claimant has suffered 60% permanent physical disability and is also suffering from blindness. The issue of not filing the claim petition for nine years was not raised before the Tribunal. The Tribunal has passed well-reasoned order, no interference is required in it, and requested to dismiss the appeal.

4. I have heard both learned counsel, perused impugned judgment and order passed by the Tribunal.

5. Learned counsel for the Appellant has raised the issue of the claim petition not being filed for nine years. However, this issue was not raised before the Tribunal. When issue was not raised before the Tribunal, hence, it cannot be raised at the appellate stage. The Tribunal has not framed issue regarding it. Hence, I do not find merit

in contention of delay in filing the claim petition.

6. To prove the defence, the driver of offending rickshaw was not holding effective and valid driving licence. The insurance company has examined DW-1 Dattaray Dodmani, Clerk of Deputy Regional Transport Office, Solapur. He has stated that the motor driving licence was not issued in the name of Sharad Naikwadi. The letter is at Exhibit – 63.

7. In cross-examination, he has stated that the computerization of Regional Transport Office has been done in the year 2007, before it, the entries used to be taken in the hand writing. It is not necessary that person resident of Solapur should obtain driving licence from the R.T.O. Office at Solapur. He has further stated that possibility cannot be ruled that said person could have obtained driving license from other district. He further admits that he is not aware about the hand written entries. Considering the admissions given by this witness, the Tribunal has observed that it is not established that the driver of offending Rickshaw was not holding effective and valid driving licence, on that ground, the Tribunal has allowed the claim petition, I do not find infirmity in it.

8. In view of above, the appeal is devoid of merit, and I pass

following order :

**ORDER**

- i. The appeal is dismissed.
  - ii. The Claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
  - iii. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
  - iv. Record and proceeding be sent back to the Tribunal.
9. All pending applications, if any, also stand disposed off.

( SHIVKUMAR DIGE, J.)