IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1795 OF 2024

	Divisional Manager, Reliance General Insurance Co. Ltd. Space Cosmos, Ashok Stambh, Nashik	)))…	Appellant
	versus		
1	Shubhash Daulat Shirsath Aged about 35 years, Occ : Nil R/o. Bidi Kamgar Nagar, Amrutdham, Panchvati, Nashik	))))	
2	Mayur Bhausaheb Rajguru Age : Major, Occ : Business R/o. Sarole Khurd, Tal. Niphad, Dist : Nashik	)))…	Respondents

………..

Mr. Avesh Ghadge with Mr. Akshay Kulkarni, Advocate for the Appellant.
Mr. Pritesh Bohade, Advocate for Respondent No.1.

CORAM : R. M. JOSHI, J.

DATE : 4th DECEMBER, 2025.

ORAL JUDGMENT :

1. By consent of both the sides heard finally at the stage of admission.

2. Insurer takes exception to the Judgment and Award dated 28.05.2024 passed in M.A.C.P. No. 19 of 2021.

3. The appeal has been filed essentially on the ground that there is breach of terms and conditions of the policy that the driver of the offending vehicle was not holding valid and effective driving licence at the relevant time and on quantum that the functional disability accepted by the Tribunal is on higher side. A ground is also raised with regard to the genuineness of the First Information Report (FIR) as the report was lodged after 16 days of occurrence of the accident. Learned counsel for the respondents / original claimants supported impugned Award. It is contended that there is no evidence led by the insurer in order to prove the objection with regard to the breach of terms and conditions of policy. As far as the determination of the disability by the Tribunal is concerned, it is argued that the civil surgeon has issued disability certificate assessing the disability to the extent of 80%, whereas the Tribunal has considered the same to the extent of 75%. It is thus, contended that there is no merit in the appeal.

4. Though the insurer has raised objection with regard to the delay in lodging of the FIR, from the cross examination of the claimant nothing is elicited in order to hold that the FIR lodged in respect of the accident is not genuine.

5. In so far as the issues sought to be raised about the breach of the terms and conditions of the policy on the ground that the driver of the vehicle was not holding effective and valid driving licence during the relevant time, there is no evidence led by the insurer to substantiate the said defence.

6. The claimant was required to prove his claim on the basis of preponderance of probability. He examined himself and narrated the manner in which accident is caused so also injury caused to him. This is a case of amputation of right leg of the injured. There is certificate at Exhibit-27 issued by the civil surgeon accessing the disability to the extent of 80%. Learned Tribunal after considering evidence on record accepted the functional disability to the extent of 75%. No fault can be found with the said assessment done by the Tribunal. The Tribunal has accepted the income of the injured @Rs.7,500/- per month which is reasonable.

7. Having regard to the above discussion, there is no merit in the appeal. The appeal is dismissed.

8. In view of dismissal of appeal, pending applications if any, also disposed of.

(R. M. JOSHI, J.)