IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

First Appeal (st)No. 18149 of 2024
With
Interim Application No.11402 of 2024
In
First Appeal (st)No. 18149 of 2024

National Insurance Company Limited … Applicant
V/s.
Rupesh Dhanaji Ariwale and anr. … Respondents.

Mr. Rahul Mehta	Advocate for the Applicant.
Mr. Deepak S. Kilaje	Advocate for the Respondents.

CORAM : S.M. MODAK, J

DATE : 10th September 2025.

P.C. :

Heard learned Advocate for the Applicant-Insurance Company and learned Advocate for Respondent No.1 -Claimant.

2. The appeal has proceeded exparte against Respondent No.2 who is owner of the offending vehicle. The Claims Tribunal, Mumbai as per the Award dated 23rd November 2023 directed the insurer and owner of the offending vehicle to pay compensation of Rs.4,60,000/- along with interest of 7% from the date of application till realisation. There is challenge to the said judgment on behalf of insurer on various grounds. Today, Mr. Mehta has pressed only one ground, it is relating to fake licence possessed by the driver of the

offending vehicle.

3. The accident took place on 29th June 2016 at around 10.30 a.m. to 10.45 a.m. The insurer-Applicant was riding on his motor cycle at Padghegaon, Panvel. At that time offending motorcycle came all of sudden with great speed and without blowing any horn suddenly dashed the motorcycle driven by the claimant from backside. As a result the Applicant fell down and sustained injuries.

He was taken to Mahatma Gandhi Mission Hospital and then shifted to Purohit Clinic. He has spent money for treatment. He approached the Tribunal and claimed compensation of Rs.1 lac.

4. The insurer filed written-statement and denied the averments in the petition. The negligence alleged on the part of the driver of the offending motor vehicle is denied. All averments about age, occupation and disability were also denied. Petition is also opposed for not joining owner and insurer of motorcycle driven by the Applicant-Claimant. The main ground of opposition is breach of the conditions of the policy by the owner of the offending vehicle as the driving licence was fake.

5. On this background, Tribunal has framed in all five issues. The claimant examined himself and examined Dr. Naresh Khanna and Dr. Deepak Purohit for proving the medical documents whereas the insurer has examined its representative Mrs. Janhavi Naik. She has also produced necessary documents showing that the driving

licence alleged to be issued in the name of RTO, Jaunpur is a fake. After evidence the Tribunal has given all the findings in favour of the claimant and against the insurer.

6. Even he has read the affidavit of Mrs. Janhavi Naik. No doubt it is true during her evidence she has brought on record the letter issued by National Insurance, Jaunpur and by National Insurance Company, Motor T.P. Hub, the letter given by Investigator Mr. Mahendra Pandey and the necessary documents issued by Jaunpur RTO.

7. **The learned Tribunal has given categorical findings that the driving licence is fake in Para No.19.** However, the learned Member has refused to hold that there is a breach of terms of the policy. It is on the basis of observations in two judgments. The Apex Court judgment is delivered in case of *IFFCO Tokio General Insurance Co. Ltd. v/s. Geeta Devi and others.* (S.L.P. (C) No.19992 of 2023, decided on 30.10.2023).

8. There are two aspects.

(A) Proving that licence is a fake licence.

In this case the Insurance Company has discharged that burden.

(B) The Hon'ble Supreme Court observed :-

"The question, as to whether the owner has taken reasonable care to find out as to

> *whether the driving license produced by the driver (a fake one or otherwise), does not fulfil the requirements of law or not will have to be determined in each case.*"

9. Above observations are reproduced from the observations in case of ***National Insurance Co. Ltd. Vs. Swaran Singh and Others***[1]. There is no evidence that the insured/owner has taken reasonable care to find out that driver's license was genuine/fake. If it is so, no fault can be pointed out in the findings of the Tribunal. There is no serious challenge to the quantum and manner of arriving at the quantum of compensation. In view of that, I am unable to accept the contention of Mr. Mehta. The findings of tribunal cannot be faulted.

10. The Appeal is dismissed.

11. In view of above, interim application also stands disposed of.

12. The office is directed to transfer the amount of Rs.25,000/- along with interest to the Tribunal, Greater Mumbai. Tribunal to disburse the amount as per award.

(S.M. MODAK, J.)

1 AIR 2004 SC 1531 : 2004 AIR SCW 663