Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1436 OF 2025
WITH
CIVIL APPLICATION NO. 394 OF 2018
IN
FIRST APPEAL NO. 1436 OF 2025

Bajaj Allianz General Insurance Company Ltd. …Appellant
Versus
Yuvraj Shantilal Dangi & Anr …Respondents

Mr. Sarthak Diwan, for the Appellant.
Ms. Shirley Mody i/b Dormaan Dalal, for the Respondent No.1.

CORAM: R. M. JOSHI, J.

DATED: 16TH FEBRUARY 2026

PC:-

1. This Appeal takes exception to the Judgment and Award dated 15th April, 2017, passed in Motor Accident Claim Petition No. 729 of 2011, whereby the injury claim filed by the claimant was allowed with directions to the opponent to pay compensation of Rs.5,42,680/- with interest at the rate of 9% per annum from the date of claim petition till realization of the amount.

2. The appellant/insurer filed this appeal on the ground that the Tribunal committed error in not considering the evidence on record which shows that the vehicle in question is not involved in the occurrence of the accident or in alternate, there is no

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negligence on the part of the driver of the offending vehicle in causing of the accident.

3. Learned Counsel for the appellant/insurer submits that in the Written Statement plea is raised by the insurer with regard to the denial of the liability of the payment of compensation on the ground that the claimant has failed to disclose the capacity in which he was travelling in the said car. So also, there is specific denial with regard to the involvement of offending vehicle in occurrence of the accident. He drew attention of the Court to the cross-examination of the claimant wherein he admits to have been received beating at the hands of villagers at the spot of the accident. On these amongst other contentions, he seeks interference in the impugned Judgment and Award.

4. Learned Counsel for the claimant supported impugned Judgment and Award.

5. Apart from the fact that no independent evidence has been led by the insurer before the Tribunal, perusal of the Written Statement also does not show that any specific plea was raised by the insurer with regard to the non involvement or negligence. Needless to say that the entire Written Statement needs to be read as a whole and it could not be read in piecemeal. The moment it is claimed by the insurer that the claimant was unauthorizedly occupying the offending vehicle, it becomes an admission on the part of the insurer with regard to the involvement of the vehicle as well as the claimant being occupant of the said vehicle. Since no evidence is led by the appellant/insurer before the Tribunal to substantiate the contentions, this Court finds no reason to cause any inference in the impugned Judgment and Award.

6. Hence, there is no merit in the appeal.

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

ORDER

a) The Appeal stands dismissed.

b) The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

c) The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

d) R & P be sent back to the Tribunal.

8. In view of dismissal of the Appeal, pending Applications, if any, stand disposed of.

(R. M. JOSHI, J.)