Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1104 OF 2025

Bajaj Allianz General Assurance Company Limited …Appellant

Versus

Abdul Gani Subhan Shaikh and ors. …Respondents

Mr. Sarthak S. Diwan, for the Appellant.
Mr. Himanshu Jha i/by Mr. Yogesh Pande, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 6th FEBRUARY, 2026.

PC:-

1. By consent of both sides, heard finally.

2. This appeal is filed by the Insurer being aggrieved by the judgment and award dated 6th March, 2020 passed by the Motor Accident Claims Tribunal, Pune in M.A.C.P. No.451 of 2015, whereby Claimants were allowed with direction to the Opponents to pay jointly and severally compensation of Rs.17,38,339/- with interest at the rate of 9% p.a.

3. The Insurer takes exception to the said judgment and award on the ground that the Tribunal has erred in not considering the defences taken by the Insurer and proved by leading evidence.

4. According to the learned counsel for the Appellant, defences taken by the Insurer i.e. breach of terms and conditions of the policy, the driver of the vehicle not having effective and valid driving license, so also with regard to as to the person who actually was driving vehicle in question are duly substantiated. Similarly, he raised challenge to the quantum of compensation granted by the Tribunal on the ground that it is excessive.

5. Learned counsel for the Claimants supported the impugned judgment and award.

6. There is no dispute on the fact that on 9th June, 2015 at about 4.00 p.m. while deceased was returning home by walk, she was given dash by a car bearing registration No.MH12-MB-1862 Respondent No.1 insured with Respondent No.2. In the said accident, deceased died. Deceased was government employee drawing salary of Rs. 20,349/- per month.

7. In the written statement filed by the Insurer specific plea was raised with regard to the negligence on the part of the driver of the offending vehicle in occurrence of the accident. It was claimed that vehicle was driven carefully in the moderate speed and the accident occurred due to negligence on the part of deceased herself. Defence was also taken in respect of the breach of conditions of the policy.

8. Perusal of the record indicates that though the plea was raised by the Insurer with regard to the driving license, there is no evidence led before the Tribunal except for examining witness, is the employee of the insurance company. The Insurer has failed to lead any evidence to show there being terms and conditions of the policy. In so far as negligence is concerned, the Tribunal has rightly taken into consideration evidence on record in order to hold that it was duty and responsibility of the driver of the vehicle to drive the same carefully in a crowded place to avoid occurrence of any accident. Tribunal by carefully considering evidence of Jakir, driver of offending vehicle has held that the vehicle was in high speed and therefore, could not be controlled to avoid accident. The finding recorded are in consonance with evidence on record. The Claimants contention with regard to the accident is supported by police papers on record.

9. This evidence further shows that the offending vehicle was being driven by Jakir and not by Opponent No.1. there is no evidence led before the Tribunal to prove contrary. Moreover, Insurer has also failed to prove any breach of conditions of policy.

10. The evidence led by the Claimants with regard to the employment and income of the deceased is supported by documentary evidence placed on record and as such no possibility is seen in the findings of Tribunal on the said issue determination of compensation.

11. Having regard to the aforesaid facts, there is no merit in the appeal.

12. Hence, order:-

ORDER

(i) First Appeal stands dismissed.

(ii) The Claimants are permitted to withdraw the deposited amount alongwith accrued interest thereon.

(iii) The statutory amount be transmitted to the Tribunal alongwith accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

(iv) Record and proceedings be sent back to the Tribunal.

(R. M. JOSHI, J.)