Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1098 OF 2024

Bajaj Allianz General Insurance Co Ltd, Mumbai …Appellant
Versus
Subhash Namdev Hiwale & Anr …Respondents

Mr Sarthak Diwan, for the Appellant.
Mr Amol Gatne, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 16TH JANUARY 2026

PC:-

1. This Appeal takes exception to the Judgment and Award dated 14th February 2024 passed in MACP No. 1682 of 2018, on the ground that the driver of the offending vehicle was not holding valid and effective driving license at the relevant time and, as such, there is breach of condition of policy. Secondly, the challenge is raised to the grant of compensation on the ground it being excessive.

2. Learned counsel for the Appellant submits that the Appellant Insurer has taken a defence in the Written Statement about the driver of the offending vehicle not having the valid and effective license and the said plea has been supported by the evidence led before the Tribunal. It is his submission that the witness of the Insurer has deposed about the investigation being

SHEPHALI SANJAY MORMARE Digitally signed by SHEPHALI SANJAY MORMARE Date: 2026.01.20 17:45:53 +0530 conducted, wherein it was found that the driver was not holding such license and notice in this regard was issued to the owner of the offending vehicle. On the point of income and compensation, it is his contention that the Tribunal has considered the notional income of the deceased on higher side.

3. The learned counsel for the Claimant supported the impugned Judgment and Award by contending that though evidence was led by the Insurer, the witness of the Insurer has admitted about the notice thereof having not been received by the owner of the offending vehicle. In sofar as the compensation amount is concerned, it is his argument that the notional income considered by the Tribunal is not excessive.

4. No doubt, the Insurer has taken plea with regard to the driving license and breach of condition of policy. The officer of the Insurance Company was examined before the Tribunal in order to support the said plea. The witness, however in the cross-examination has admitted that there being no acknowledge to indicate receipt of notice issued by the Insurer or to the owner of the offending vehicle. In view of the said admission, it cannot be said that the defence taken by the Appellant/Insurer is substantial before the Tribunal. Apart from this, it is pertinent to note that though investigation is said to have been carried out by the Insurer Company, report of investigator is not placed before the Tribunal. Similarly, perusal of the charge-sheet also indicates that there was no allegation against the driver of the offending vehicle of not holding valid and effective license. The Tribunal, therefore, has committed no error in fastening liability of payment of compensation on Insurer too.

5. As far as the amount of quantum of compensation is concerned, the Tribunal has accepted the notional income of the deceased to the extent of Rs. 6,000/- per month. In the facts of the case, the same cannot be termed as excessive to cause interference in quantum of compensation determined.

6. In view of the above, there is no merit in the Appeal and it is dismissed.

7. Hence, I pass the following order:

ORDER

(a) The Appeal is dismissed.

(b) The Claimants are 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.)