

Priya Soparkar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1748 OF 2025**

ICICI Lombard General Insurance Company ...Appellant
Limited, Mumbai.

Versus

Vishvanath Chandrakant Gurav and anr. ...Respondents

Mr. Rajesh Kanojia, for the Appellant.

Mr. Vasant More, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 13th FEBRUARY, 2026.

PC:-

1. This appeal is filed by Insurer being aggrieved by the judgment and award dated 3rd April, 2023 passed by the Tribunal in MACP No.1404 of 2016 on the ground that the Insurer is not liable for payment of compensation in view of the fact that the policy in respect of the offending vehicle is an Act policy and therefore, occupying vehicle is not covered therein.

2. Learned counsel for the Appellant submits that the Claimants have placed reliance on the insurance policy which indicates that it is an Act policy and therefore, it was necessary/obligatory on the part of the Tribunal to consider the said evidence and to hold that there is no liability of the Insurer to pay compensation.

3. Though Insurer filed written statement, but no specific plea has been raised by the Insurer denying the liability on this ground,

since there is no pleading. The evidence on record could not have been considered by Tribunal. Apart from this, perusal of the judgment impugned indicates that even no arguments were made before the Tribunal in this regard and it is for the first time the said issue is sought to be raised in this appeal. The issue/point raised now is not pure question of law, to permit it to be raised for first time in appeal.

4. Thus, there is no merit in the appeal.

5. As a result of above discussion, I pass the following 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.

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

(R. M. JOSHI, J.)