

Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1749 OF 2025
WITH
INTERIM APPLICATION NO. 10756 OF 2025
IN
FIRST APPEAL NO. 1749 OF 2025

SBI General Insurance Company Ltd. ...Appellant
Versus
Mahendra Rajaram Gautam And Anr. ...Respondents

Mrs. Shalini Shankar, for the Appellant.
Mr. Yashika Jain i/b Jeetendra P. Gor, for the Respondent No.1.

CORAM: R. M. JOSHI, J.

DATED: 27th JANUARY 2026

PC:-

1. By consent heard finally at the stage of admission.
2. This Appeal takes exception to the Judgment and Award dated 22nd December, 2023, passed in Motor Accident Claim Application No. 657 of 2016, whereby the Tribunal directed a sum of Rs.2,32,000/- with interest @ 7.5% per annum from the date of filing of claim petition till realization of the amount.
3. There is no dispute about the fact that an accident occurred on on 1st February, 2016 involving Motor Truck bearing No. MH-43-AM-1343, the claimant sustained injuries and consequent

disability. The appellant/insurer takes exception to the Judgment and Award on the ground that the Tribunal has failed to consider the insurer has not only pleaded the claim of fake driving licence but also proved the same.

4. Learned Counsel for the appellant/insurer submits that the owner of the offending vehicle failed to cause appearance before the Tribunal and the insurer in the Written Statement took specific plea of fake driving licence of the driver of the offending vehicle. It is her contention that the said plea is proved by examining witness from RTO Kanpur Nagar. Attention of the Court is drawn to paragraph No. 13 of the impugned Judgment and Award wherein it is held that the driving licence is fake and manipulated. She further submits that inspite of recording the finding, the Tribunal has not discharged the insurer from the liability of payment of compensation. It is her submission that in any case there has to be an order of pay and recover.

5. Learned Counsel for the claimants/respondents supported the impugned Judgment and Award.

6. No doubt, herein this case in the Written Statement a specific plea was raised with regard to the driver of the offending vehicle not having valid and effective licence and the driving licence relied upon being fake and manipulated. There is also evidence led of witness from RTO, Kanpur Nagar to substantiate the said fact. This, however, is not sufficient to discharge the liability of the insurer. It needs to be proved that the owner of

vehicle had knowledge about said fake licence of the driver while enjoying him to drive the vehicle. The learned Tribunal in paragraph 14 of the impugned Judgment and Award has rightly taken into consideration the said fact and has held that there is no proof of willful breach of terms and conditions of insurance policy.

7. In such circumstances, this Court finds no substance in the challenge to the impugned Judgment and Award. Needless to say that for want of specific evidence with regard to the knowledge of the employer about the fake and manipulated driving licence, the order of pay and recoveries cannot be passed. Hence, no merit in the Appeal. Hence, the following order.

ORDER

- a) The Appeal is dismissed.
- b) The claimants are permitted to withdraw the deposited amount alongwith accrued interest thereon.
- c) The statutory amount be transmitted to the Tribunal alongwith 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 Application/s, if any, stand disposed of.

(R. M. JOSHI, J.)