

Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1901 OF 2024

Reliance General Insurance Co.Ltd.

...Appellant

Versus

1. Vishnu Tirthdas Tharaney

2. M/s. Kaylites Electrical Pvt. Ltd.

...Respondents

Mr. Avesh Ghade i/by Akshay Kulkarni, for the Appellant.

Mr. Vasant Ninaji More, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 19th JANUARY, 2026.

PC:-

1. By consent of both sides heard finally at the stage of admission.

2. This appeal under Section 173 of the Motor Vehicles Act, 1988 takes exception to the judgment and award dated 4th August, 2023 passed in M.A.C.P. No.52 of 2019, whereby the Tribunal allowed injury claim and granted compensation of Rs.9,67,000/- with interest @7.5% per annum from the date of registration of claim petition till realization of the amount.

3. The Appellant / Insurer takes exception to the said judgment and award on the ground that the Tribunal has committed error in not accepting the defence of the Insurer with regard to the driver of the offending vehicle not having valid and

effective driving license at the relevant time. Learned counsel for the Appellant drew attention of the Court to the two statements filed on record so also evidence led before the Tribunal in this regard. According to him, considering the inconsistencies in the charge-sheet, the evidence led by the Insurer is sufficient to prove the objection. On the point of compensation and quantum, it is submitted that the Tribunal has granted excessive compensation without considering the nature of injuries caused to the claimant, more particularly, the compensation for pain and suffering and medical expenses.

4. Learned counsel for the claimants supported the impugned judgment and award by drawing attention of the Court to the evidence led by the Insurer with regard to the driving license of Salim Barakali Daredia, though the driver of the offending vehicle was Amit Daredia. It is submitted that the Tribunal has recorded findings in paragraph Nos. 22 and 24 of the impugned judgment and award and having regard to the evidence on record there is no perversity therein.

5. The claimants are required to prove the factum of accident so also the negligence on the part of the driver of the offending vehicle on preponderance of probability. It is open for the claimants to rely upon the evidence in the form of charge-sheet filed against the driver of the offending vehicle. Herein this case, the claimant himself has witnessed the accident and has narrated the manner in which it happened. Apart from this, the evidence led before the Tribunal indicates that charge-sheet came to be filed against Amit Daredia, driver of the offending vehicle.

6. A perusal of the evidence led by the Insurer indicates that the driving license of Amit Daredia was not sought to be produced but the evidence was sought to be led in respect of Salim Barakali Daredia. As rightly held by the learned Tribunal in the impugned judgment and award, the said evidence is immaterial to the defence taken by the Insurer in the written statement. The Tribunal has recorded exhaustive findings in paragraph Nos.22 to 24 of the impugned judgment and award. Having regard to the nature of evidence led by the Insurer, no perversity is seen therein.

7. As far as the claim with regard to the medical expenses are concerned, the claimant led his evidence in order to show his hospitalization and treatment. Having regard to the nature of injuries caused to him and the period of hospitalization which is supported by the documentary evidence on record, the compensation granted towards the medical expenses cannot be faulted. Similarly, the Tribunal has granted compensation of Rs.50,000/- towards pain and suffering and in the facts of the present case the same is not acceptable.

8. In view of the above, appeal *sans merit*. Hence, following order.

ORDER

- (i) Appeal stands dismissed.
- (ii) The statutory deposit alongwith interest , if any, be transferred to the Tribunal. The said amount be adjusted towards the compensation.

- (iii) All pending applications, if any, stands disposed of.
- (iv) R & P be sent back to the Tribunal.

(R. M. JOSHI, J.)