



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

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FIRST APPEAL NO.372 OF 2016  
WITH  
CIVIL APPLICATION NO.429 OF 2013

The New India Assurance Co. Ltd. ...Appellant/Applicant  
(Orig. Insurer/Opp. No.3)

Versus

Mr. Pramodh Kumar Malhotra and Anr. ...Respondents  
(Orig. Applicants &  
Opp. Nos.1, 2 & 4)

WITH  
FIRST APPEAL NO.715 OF 2016

The New India Assurance Co. Ltd. ...Appellant  
(Orig. Insurer/Opp. No.3)

Versus

Mr. Vaibhav P. Malhotra and Ors. ...Respondents  
(Orig. Applicants & Opp. Nos.1, 2 & 4)

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Mr. D. R. Mahadik for the Appellant in FA No.372/2016, CAF/429/2013  
and FA No.715/2016.

Mr Anuj N. Narula a/w. Ms. Meenal Bhatia i/b Jhangiani Narula and  
Associates for the Respondent in FA No.372/2016, FA No.715/2016.

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CORAM : JITENDRA JAIN, J.  
DATED : 8 June 2026

PC. :

1. By consent, these appeals are taken up for final hearing.



2. Both these appeals are filed by the insurance company challenging the order of the Motor Accident Claims Tribunal, Vasai ("Tribunal") dated 15 May 2012 whereby the compensation of Rs.6,56,032/- alongwith interest @ 7% p.a. was awarded.

3. Heard learned counsel for the appellant and the respondents.

4. Insofar as both the appeals being Nos.372 of 2016 and 715 of 2016 filed by the insurance company are concerned, the only ground urged by the learned counsel for the insurance company is that the driver of the tempo was not having a license to drive a transport vehicle but was holding a license for driving a light motor vehicle (non-transport). No other submission has been made by the learned counsel for the insurance company.

5. Admittedly, the above ground was not raised by the insurance company before the Tribunal and, therefore, the same was not proved. There is also no reason as to why this ground was not taken up before the Tribunal. It is settled position that the ground which was not raised before the Tribunal and which requires evidence to be led cannot be agitated before this Court moreso in the absence of any sufficient cause shown for not raising the ground. The accident is of the year 2002. The order of the Tribunal is dated 15 May 2012. The present appeals have come up for hearing in the year 2026. In the light of these facts and dates, the request made by the learned counsel for the insurance company to remand the matter to lead the evidence in support of the above submission cannot be accepted. The remand proceedings cannot be resorted to overcome and fill up the shortcomings after the impugned order is passed. Therefore, the ground raised by the insurance company in their appeals is rejected and consequently both the appeals filed by the insurance company also stand



dismissed.

6. Both the appeals are dismissed. Consequently, the civil applications, if any, do not survive and are disposed of.

**(JITENDRA JAIN, J.)**