



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1077 OF 2016
WITH
CIVIL APPLICATION NO.2775 OF 2019
WITH
CIVIL APPLICATION NO.1024 OF 2019

National Insurance Co. Ltd. ...Appellant/Applicant
Versus
Sonal Vijay Shah @ Sangoi & Ors. ...Respondents

Mr. Amol Gatne for the Appellant/Applicant.
None for the Respondents.

CORAM : JITENDRA JAIN, J.
DATE : 9 JUNE 2026

P.C.:

CIVIL APPLICATION NO.2775 OF 2019

1. This application is filed by the insurance company under Order 41 Rule 27 of the Code of Civil Procedure, 1908 (CPC) for admission of additional evidence being the report of the investigator to bring on record that the driver of the offending vehicle was not holding valid licence.
2. The relevant dates which are necessary for the present application are as under :-
3. The accident happened on 17 December 2008. The original application was filed by the claimants on 21 April 2009 and the impugned order was passed by the Tribunal on 7 October 2015. As per the application, the insurance company made the necessary application to investigator with respect to validity of the driving licence of the driver on 8 October 2015 i.e. after the date of the impugned order.



Sayed

4. In the application, it is not pointed out as to why such application could not have been filed, when the original application was served and when the matter was pending before the Tribunal. In the absence of any cause shown for not making such an application prior to the impugned order, the requirements referred to in Order 41 Rule 27 of the CPC are not satisfied and, therefore, the application for admission of additional evidence cannot be allowed to cover-up the shortcoming pointed out by the Tribunal in its order.

5. In view of above, Civil Application No.2775 of 2019 is dismissed.

FIRST APPEAL NO.1077 OF 2016

6. By consent, taken up for final hearing at the admission stage.

7. By a separate order, application for additional evidence has been rejected.

8. The present appeal is filed by the insurance company challenging the order of the Tribunal dated 7 October 2015.

9. The only ground which is pressed by the learned counsel for the insurance company is that the driver of the vehicle was not holding valid licence and, therefore, the liability could not have been imposed on the insurance company. On a perusal of the impugned order it is observed that no evidence has been led by the insurance company with respect to this submission before the Tribunal. In the absence of any steps taken by the insurance company in support of their above plea, no infirmity could be found in the impugned order with respect to this issue. Had the insurance company taken some steps which they have taken prior to the impugned order, after the impugned order was passed then



6-FA.1077.2016.doc

2026:BHC-AS:22987

Sayed

the submission could have been considered. Now that the application for additional evidence has also been rejected, in my view, in the absence of any evidence being led by the insurance company with respect to this submission, the impugned order cannot be assailed.

10. The original claimants are entitled to the awarded amount alongwith interest. Statutory deposit of Rs.25,000/- to be transferred to the concerned Tribunal and the parties are at liberty to make an application for refund of the same.

11. In view of above, First Appeal No.1077 of 2016 stands dismissed. Consequently, Civil Application No.1024 of 2019 does not survive and is disposed of accordingly.

[JITENDRA JAIN, J.]