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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 196 OF 2016  
WITH  
CIVIL APPLICATION NO. 424 OF 2013

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Iffco Tokio General Insurance Co. Ltd. ....Appellant/Applicant

*Versus*

Dharmi wd/o. Navsa Mahji Tumda & Ors. ....Respondents

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Ms. Nidhi Shah i/by Ms. Kalpana Trivedi (through V. C.) for the Appellants/  
Applicants.

Mr. Neville D. Deboo for Respondent No. 4.

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CORAM : JITENDRA JAIN, J.  
DATED : 09<sup>th</sup> JUNE 2026

P. C. :

1. Heard learned counsel for the parties by consent.
2. This appeal is filed by the Insurance Company challenging the order of the Tribunal dated 10<sup>th</sup> May, 2012, whereby, Rs.6,84,000/- has been awarded alongwith interest.
3. On 19<sup>th</sup> February, 2011 Mr. Navsa Tumda was travelling in Wagon R along with other persons. Due to rash and negligent driving, driver lost the control over the car and dashed with the tree and, thereafter, the car turned turtle. Some of the passengers sustained injuries, whereas, Mr. Navsa Tumda died in the accident. On application by the dependents, the Tribunal awarded Rs.6,84,000/-. Being aggrieved by the above order, the Insurance Company has filed present appeal.



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4. It is the contention of the learned counsel for the Insurance Company that the driver was not holding a valid license and, therefore, there was a breach of terms and conditions of the policy. It is, therefore, the submission that the Insurance Company should not be made liable to make payment of compensation.

5. The above submission has been considered by the Tribunal in paragraphs 12 to 15. The Tribunal after considering the evidence on record has come to a conclusion that the Insurance Company has failed to prove that the driver was not holding a valid license. The witness of the Insurance Company in the cross-examination has admitted that no notice was issued to the owner of the vehicle, calling upon him to produce the driving license of the driver. Such a request was made after the evidence of the claimants.

6. The Tribunal has also recorded that the police has not registered any offence against the driver for driving the car without a valid license, though the driver was prosecuted for the other offences. After considering various evidences, before the Tribunal, the Tribunal has come to a conclusion that this contention of the Insurance Company is not acceptable.

7. I have considered the findings of the Tribunal, which were based on evidence and same has not been rebutted. The contention raised that the driver was not holding a valid license, cannot be accepted. In any case, if there is any breach of terms and conditions of the policy between the Insurance Company and the insured, then the remedy of the Insurance Company lies against the insured, but the third party should not be made to suffer.

8. The claimants are entitled to the amount awarded by the Tribunal along with interest and the Tribunal is directed to pay the same to the original claimants within eight weeks from today.



9. Statutory deposit of Rs.25,000/- to be transferred to the concerned Tribunal and the parties are at liberty to withdraw the same.

10. In view of the above reasoning, the appeal of the Insurance Company is dismissed. Consequently, civil application does not survive and is disposed of accordingly.

[ JITENDRA JAIN, J. ]