

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.1803 OF 2016.

United India Insurance Company Ltd.,
Through its Branch Manager, Branch at
Chatrapati Sankul, Beed
Through its Authorized Signatory/
Divisional Manager, Divisional Office
No.1, Osmanpura, Aurangabad. ...APPELLANT

Versus

1. Shobha Shivling Zunjare,
Age : 33 years, Occup. Household,
R/o Radi Tq. Ambajogai,
Dist. Beed.
2. Sanjaykumar Bharat Jaju,
Age : Major, Occup. Business,
R/o Kanadi Borgaon Tq. And
Dist. Latur. ...RESPONDENTS

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Mr. S. G. Chapalgaonkar, Advocate for petitioner
Mr. S. G. Kawade, Advocate for respondent no.1
Mr. Vikas G.Kodale h/f Mr. V. D. Gunale, Advocate for
respondent no.2

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CORAM : A.M. DHAVAL, J.

DATED : 11TH JULY, 2017.

ORAL ORDER :-

1. Rule. By consent of parties, taken up for final hearing.
2. In M.A.C.P. No. 10/2015 filed by the respondent No.1, before Member Accident Claim Tribunal at Ambajogai, under Section 166 of Motor Vehicle Act, for death claim, the application Exh.05 was filed for No Fault Liability claim of Rs.50,000/- under Section 140 of Motor Vehicle Act. The petitioner herein is the insurance company. The respondent No.1 has produced one policy for the period 10th October, 2014 to 9th October, 2015, purportedly issued on 25th October, 2014. Whereas the accident has taken place on 20.10.2014. The insurance company claimed that, the policy is fraudulently obtained and no premium has been paid. The learned Member by order dated 4th February 2016, allowed the claim under Section 140 holding that it was not necessary at that stage to consider the claim of fraudulently obtaining of the policy.

3. Learned advocate Mr. S. G. Chapalgaonkar, for the appellant has stated that, similar defence has been raised by the present appellant in several matters, C.B.I. enquiry is also directed and some officers are suspended. In a group of such matter bearing Civil Application No.3400/2016 and others, brother Judge Mr. J. P.R. Bora by order dated 24.10.2016, permitted withdrawal of the amount of claim by the claimant subject to final outcome of the claim. Similar order will serve the purpose. The learned advocates Mr. S.G.Kawade, for respondent No.1 and Mr. V.D. Gunale, for respondent No.2, have no objection for the proposal. Hence, without going into the merits (which may have likely effect of influencing the trial), I pass the following order.

ORDER

1. The appeal is partly allowed.
2. The effect of impugned order is kept in abeyance subject to the final outcome of the claim petition.

3. Meanwhile respondent No.1 is permitted to withdraw the amount subject to furnishing bank guarantee in the like amount of any nationalized bank.

4. The payment shall be subject to the final outcome of the claim petition.

5. The appeal stands disposed.

[A.M. DHAVAL, J.]

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vjg/-