

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

922 FIRST APPEAL NO. 4223 OF 2017
WITH CIVIL APPLICATION NO. 5380 OF 2017
IN FA/4223/2017 WITH CA/14941/2016 IN FA/4223/2017

UNITED INDIA INSURANCE CO. LTD. THR ITS BRANCH MANAGER,
AURANGABAD AND ORS.

VERSUS.

DNYANESHWARI UTTAM NAGARGOJE AND ORS

...

Advocate for the Appellant : Mr. Mohit Deshmukh h/f Mr.
S.G. Chapalgaonkar.

Advocate for respondents No. 1 to 4 : Mr. S.G. Munde.

Advocate for Respondent No. 3 : Mr. M. D. Gitte.

CORAM : K. L. WADANE, J.

DATE : 13th December, 2017

ORDER:

1. With consent of both parties, this appeal is taken up for final hearing.

2. Heard Mr. Chapalgaonkar, learned counsel for appellant and Mr. Munde, learned counsel for respondents No. 1 to 4. Respondents No. 5, 6 and 8 are yet to be served.

3. Learned Counsel for the appellant submits that the order of granting amount of 'no-fault liability' has been challenged in this appeal. He further submits that it is the say of the appellant/insurance company that the accident in question took place on 28.11.2012 and the proposal for insurance policy was on 04.12.2012

and premium collected for this policy on 06.12.2012. Learned counsel submits the insurance company has identified almost 22 insurance policies which are antedated policies and therefore the matter is under investigation from the Central Bureau of Investigation. Therefore, the learned counsel for the appellant has seriously disputed the liability of payment of compensation even under 'no-fault liability'. The learned counsel therefore prayed to allow the appeal. He further prayed that the amount deposited by the insurance company be remitted to the learned Tribunal and the claim petition may be expedited.

4. Learned counsel for the respondents No. 1 to 4, on instructions, has no objection to remand the matter.

5. Since the liability of payment of compensation under 'no-fault liability' is seriously disputed by the appellant/insurance company, I am of the opinion that such disputed issue can be determined by the Tribunal at the conclusion of the claim petition, for which the matter needs to be remanded to the learned Tribunal for its disposal in accordance with law.

6. In view of the above First Appeal No. 4223/2017 is disposed of with direction to learned Tribunal to

dispose of the Claim Petition No. 121/2013 as early as possible, preferably within a period of six months from the date of appearance of the parties.

7. Parties are directed to remain present before the Member Motor Accident Claims Tribunal, Ambajogai, on 04.01.2018.

8. Amount of compensation in respect of 'no-fault liability' along with accrued interest be remitted to the learned Tribunal.

9. Disbursement of amount of compensation is subject to the decision of the claim petition.

10. As First Appeal No. 4223/2017 is remanded, pending Civil Applications are disposed of.

(K. L. WADANE, J.)

mkd