IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

C.A.F. NO.1654/2018 IN F.A. ST. NO. 4176/2018
(UNITED INDIA INSURANCE CO. LTD., NAGPUR **...VERSUS...** VIJAY MANIKRAO SURKAR & ANOTHER)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri B.P. Bhatt, counsel for the applicant.
Ms Monali Pathade, counsel for the R-1.
Ms Swati B. Kumar, Advocate h/f Shri S.G. Karmarkar, counsel for the R-2.

CORAM : NITIN W. SAMBRE, J.
DATE : NOVEMBER 26, 2018.

Heard learned counsel for the respective parties.

For the reasons disclosed, the delay of 123 days caused in preferring the present appeal stands condoned.

The civil application is allowed and disposed of.

F.A. ST. NO. 4176/2018.

The appeal is taken up for final disposal as prayed by the learned counsel for the appellant.

The contention raised by the learned counsel for the appellant is that the insurance policy which has formed the basis for awarding 'No Fault Liability' is a fake document.

The issue is no more *res integra* as this Court in the matter of *Manager H.D.F.C. Ergo Gen. Insurance Co. Ltd. Versus Kalpana & Others*, reported in [**2015 (4) TAC 425 Bombay**] has taken a view that the issue of fake policy can be gone into at the time of final hearing and it shall be open for the appellant-Insurance Company to recover the amount of compensation already paid. That being so, in my opinion, no case for interference is made out.

The learned counsel for the appellant would also try to submit that there are certain unreported judgments which speak of arrangement of disbursement in such an eventuality at the time of final hearing of the claim petition pending before the Tribunal.

I am afraid such contention cannot be appreciated at this stage, particularly keeping in mind the object for which the provision of 'No Fault Liability' under Section 140 of the Motor Vehicles Act is incorporated in the Statute Book. That being so, in my opinion, keeping the right of the present appellant to agitate the issue of sham and bogus policy at an appropriate stage of proceedings in the claim petition pending on the file of the Claims Tribunal open, the present appeal, which in my opinion, is devoid of any merit, stands dismissed.

Pursuant to the request made by the claimant, the amount of No Fault Liability of Rs.25,000/- as deposited by the appellant be released in favour of the claimant with interest accrued thereon. The objection raised for such release by the learned counsel for the Insurance Company is overruled for the reasons recorded hereinabove.

The first appeal is disposed of in aforesaid terms. No costs.

(**NITIN W. SAMBRE, J.**)

APTE.