

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

C.A.F. NO. 1108/2018
IN
FIRST APPEAL NO. 950/2011

The OIC, Amravati
..VS..
Smt. Bebitai Wd/o Sahebrao Deshmukh & ors.

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

Court's or Judge's orders

Shri S.N. Dhanagare, Advocate for the appellant(s)
Ms. N. Singhvi, Adv. h/f Shri S.S. Shingane, Adv. for respondent no. 4

CORAM : Z.A.HAQ, J.
DATED : APRIL 12 2018.

Considering the nature of claim and the fact that the respondent no. 1 is senior citizen, prayer for early hearing of the appeal is granted.

The civil application is allowed accordingly. No costs.

F.A. No. 950/2011

Heard.

The appellant-Insurance Company has filed this appeal to challenge the award passed by the Motor Accident Claims Tribunal by which the claim of the respondent nos. 1 to 3 for compensation is upheld.

The award is challenged mainly on the ground that the claim petition was filed under Section 163A of the Motor Vehicles Act, 1988, the pleadings of the claimants being that deceased-Pranil Sahebrao Deshmukh was travelling

in the vehicle in question as a cleaner on the vehicle and the risk of the cleaner was not covered under the policy.

After hearing the learned advocates for the respective parties, I find that following point arises for consideration:-

“Whether the impugned award is proper or not ?”

Though at the time of hearing of the claim petition, the claimants had pleaded that deceased- Pranil Sahebrao Deshmukh was working on the vehicle and was accordingly travelling in the vehicle at the time of accident, however, after filing of the written statement by the appellant-Insurance Company disputing the status of Pranil Sahebrao Deshmukh as cleaner and opposing the claim petition, the claimants had filed an application seeking permission to amend the claim petition and to plead that deceased- Pranil Sahebrao Deshmukh was travelling in the vehicle in question as an ordinary passenger. This application seeking permission to amend the claim petition was dismissed by the Tribunal. The claimants had filed W.P. No. 3664/2008 before this Court which came to be allowed by order dated 21/10/2008. This Court, while allowing W.P. No. 3664/2008 observed that the Insurance Company had itself denied the status of deceased-Pranil Sahebrao Deshmukh as cleaner and therefore they cannot object for amendment of the claim petition by the claimants pleading that deceased-Pranil Sahebrao Deshmukh was travelling in the vehicle in question as an ordinary passenger.

The Tribunal has considered the evidence on this point and has recorded its finding in para no. 7 of the impugned award holding that deceased-Pranil Sahebrao

Deshmukh was travelling in the vehicle in question as an ordinary passenger. The Tribunal has held that the claim of the Insurance Company that there was breach of conditions of the insurance policy cannot be accepted.

It cannot be said that the findings of fact recorded by the Tribunal suffer from any perversity or illegality which necessitates interference by this Court.

I see no reason to interfere with the impugned award.

The appeal is dismissed. In the circumstances, the parties to bear their own costs.

The amount deposited by the appellant and lying in deposit with the Registry of this Court alongwith interest on it, be given to respondent no. 1-Smt. Bebitai Wd/o Sahebrao Deshmukh.

JUDGE

Ansari