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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decided on: 19.08.2019*

\+ MAC.APP. 725/2019, CM APPL. 36739/2019 & CM APPL. 36740/2019

SHRIRAM GENERAL INSURANCE CO LTD ..... Appellant

Through: Mr. Arun Yadav, Advocate.

versus

ARVIND KUMAR & ORS ..... Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation on the ground that the cover note which forms the basis of the claim was fraudulent. This issue has been dealt with in the impugned order as under:-

> *"20. Respondent No. 1 and 2 have claimed that offending vehicle was duly insured with respondent No. 3 and R2W1 produced the original cover note dated 08.10.2014 Ex.R2W1/1. On the other hand, the said cover note was challenged by the insurer and it was deposed by R3W1 that the proposal form and insurance cover note Ex.R3W1/1 and EX.R3W1/2 respectively were issued on 15.10.2014. If the original cover note Ex.R2W1/1 is compared with carbon copy of cover note EX.R3W1/2, it becomes evident that apart from date of issuance, date of expiry and name and signature of the*

proposer, all other columns match each other and apparently the document Ex.R3W1/2 seems to be the carbon copy of the original Ex.R2W1/1. It is pertinent to mention here that R3W1 had admitted that serial number of both the documents and seal of the insurer are exactly the same. Further, though it is alleged on behalf of insurer that the dates on the original cover note EX.R2W1/1 have been manipulated, however, it has not been explained how it was done. When it is not disputed that handwriting on the cover note is of the agent of the insurer, it is difficult to accept the plea that only dates in the original cover note have been manipulated. It is not the case that there is overwriting in the date column or that handwriting qua dates is different from rest of the document. Moreover, no explanation has come forward regarding blank column of "name and signature of proposer" on carbon copy of cover note. Further, there is no explanation from insurer side as to why they did not initiate inquiry to ascertain the discrepancies in the original and carbon copy of cover notes. In view of this court, there is no reason as to why the dates on the carbon copy of cover note Ex.R3W1/1 cannot be manipulated and therefore, when the original cover note, which appears to be genuine in all respects, has been placed on record by respondent No.1 and 2, the onus shifts on the insurer to disprove the genuineness of original cover note produced by registered owner and to lead evidence to substantiate their plea of fake cover note by way of some concrete evidence. However, no evidence was led by the insurer to rebut the case of respondent No. 1 and 2.

21. In view of above, it is held that there is no reason to doubt the authenticity of cover note Ex.R2W1/1 produced by respondent No.1 and 2. Since the said cover note was issued on 08.10.2014 and the accident had taken place on 14.10.2014, it can be safely held that the offending vehicle *would be considered duly insured at the time of accident and even if the insurance policy Ex.R2W1/R3 has been shown to have been issued on 15.10.2014, the insurer cannot escape its liability to indemnify the loss occasioned on account of accident happened after issuance of said-cover note. Accordingly, this issue is decided in favour of respondent No. 1 and 2."*

2. On a query put to the learned counsel for the appellant as to whether the booklet from which the cover note was issued had been stolen, the answer is in the negative. On a query as to whether any inquiry was initiated against the appellant's agent, who had signed the cover note, the answer is in the negative.

3. What emanates from the above is that the cover note was issued by the appellant's agent. It had the seal of the appellant and the handwriting of the appellant's agent has not been challenged. In view of the mere statement of the appellant that the policy was fraudulent is an untenable argument.

4. The learned MACT had found that the original cover note and its carbon copy had a lot of similarities. It found that apart from date of issuance, date of expiry, name and signature of the proposer, all other columns matched each other and the document produced by the appellant i.e. Ex. R3W1/2 seemed to be the carbon copy of the original Ex. R2W1/1; the serial number of both the documents matched, so did the seal of the appellant; no overwriting could be seen in the original cover note. The alleged manipulation, if any, has not been explained or substantiated. The appellant did not initiate inquiry to ascertain the discrepancies in the original and the carbon copy of the cover note. The appellant has been unable to

prove that the original cover note produced by the claimant was fraudulent or fake.

5. In view of the above, the appellant's contention is untenable and is accordingly rejected.

6. There is no merit in the appeal. It is accordingly dismissed.

7. The statutory deposit of Rs.25,000/-, alongwith interest accrued thereon, shall be deposited in the 'AASRA Fund'.

NAJMI WAZIRI, J.

AUGUST 19, 2019
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