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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1558 OF 2016

SHRIRAM GENERAL INSURANCE CO. LTD. ….APPELLANT

V/s.

SHRI. ASHOK MAHADU KUNGAR AND OTHERS …..RESPONDENTS

WITH
INTERIM APPLICATION NO. 2103 OF 2021

ASHOK MAHADU KUNGAR AND ANR ….APPLICANTS

V/S.

SHRIRAM GENRAL INSURANCE CO. LTD. AND ANR ….RESPONDENTS

WITH
FIRST APPEAL NO. 1574 OF 2016
[NOT ON BOARD]

SHRIRAM GENERAL INSURANCE CO. LTD. ….APPELLANT

V/s.

MR. PRAKASH BABAN VADAKATE AND ANR …..RESPONDENTS

WITH
FIRST APPEAL NO. 1576 OF 2016
[NOT ON BOARD]

SHRIRAM GENERAL INSURANCE CO. LTD. ....APPELLANT

V/s.

SMT. BABABAI TRYAMBAK DEVGUNDE AND ANR. .....RESPONDENTS

Mr. Nikhil Mehta i/b KMC Legal Venture for appellant
Mr. Pritesh K. Bohade for the respondents

CORAM : NITIN W. SAMBRE, J.

DATE: AUGUST 31, 2021.

P.C.:

1] By consent of the appellant and the respondents, all these three appeals are taken together and heard finally. First Appeal Nos. 1574/2016 and 1576/2016 are taken on board by consent as mentioned by counsel for the appellant.

2] Since all these three appeals are arising out of the very same accident which has occurred on 14/09/2010, facts of First Appeal No. 1558/2016 are taken into account for deciding present appeals.

3] Motor Accident Claims Tribunal, Malegaon has decided the claim petitions preferred by respondent-claimants in exercise of powers under Section 163A of the Motor Vehicles Act [Hereinafter referred to as 'the Act' for the sake of brevity]

4] Case of the claimant is, deceased died in the accident of vehicle truck bearing no. MH-18-M-6908 which was insured with the appellant.

5] The defence raised by the appellant in the claim petition was of breach of policy conditions. It is contended that victims were not covered as per the terms of the policy as insured persons. It is alleged that deceased were unauthorized persons who were travelling beyond the permissible capacity.

6] In the aforesaid background, counsel for the appellant would urge that appeals are liable to be allowed as breach of policy conditions could be inferred from the record.

7] If the aforesaid submissions are appreciated, what is required to be noticed is, claim petitions are preferred under Section 163A of the Act. In the scheme of the said Act, it is not open for the appellant-insurance company or the vehicle owner to come out with the case of breach of policy conditions as long as there exist insurance policy of the offending vehicle. Under the Scheme of Section 163A (2) of the Act, it is not necessary to plead and establish the wrongful act, negligence or default of the insured. The Award of compensation is based on structured formula as the payment of compensation has to be in accordance with as prescribed under Schedule-II of the Act. Section 163A has overriding effect on all the provisions of the Act.

8] Perusal of the Judgment impugned in the appeal aptly makes it clear that all the facets of the matter including that of evidence brought on record was considered by Tribunal and in analytical way, dealt with, in the backdrop of Scheme of Section 163A, 147(1) & 149(2) of the Act.

9] As such, award of compensation in all these appeals cannot be faulted with.

10] As such, all these appeals stand dismissed.

11] As a consequence of dismissal of appeals, all the pending applications for withdrawal of the amount of compensation with accrued interest thereon stands allowed.

12] Statutory amount deposited, if any, in this Court is directed to be forthwith transmitted to the Tribunal with accrued interest thereon.

[NITIN W. SAMBRE, J.]

IRESH
SIDDHARAM
MASHAL

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