

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

FIRST APPEAL NO.1333/2008

United India Insurance Company Limited
Sitabuldi Branch, Rani Zhanzi Square,
Sitabuldi, Nagpur, Through its Regional
Manager, Nagpur Regional Office, Shankar
Nagar, Square, Nagpur.

...APPELLANT.
(Original
Respondent No.4)

----VERSUS----

1. Baburao S/o. Urkuda Nagdive Thr. LR's.
- 1-(a) Leela wd/o. Baburao Nagdive,
Aged about : 67 years, Occ.: Housewife.
- 1-(b) Siddharth s/o. Baburao Nagdive,
Aged about : 29 years, Occ.: Service,
Both R/o.: Pilinadi, Kamtee Road, Pahune
Layout, Nari, District : Nagpur.
2. Ramesh s/o. Keshao Zade,
Aged about 45 years, Occ. : Service,
Resident of Sanjay Nagar, New Subhedar
Layout, Plot No.116, Nagpur.
(Original respondent No.1). **...Dismissed
against
Respondent
Nos.2 & 3.**
3. Tejbeersingh Geel s/o. Harvindarsingh Geel,
Aged about 40 years, Occ. : Business,
Resident of Vishal Apartment, Wardha Road,
Ajni, Nagpur
(Original respondent No.2.)
4. Sharad s/o. Dattatraya Dhariya,
Aged about 45 years, Occ. : Business,
Resident of Ayurvedic College Layout,
Nagpur. **...RESPONDENTS**
(Original respondent No.3.).

Mr. C. A. Anthony, Advocate for Appellant.
Mr. V. D. Awchat Advocate for Respondent No.1.

CORAM : M. S. SONAK, J.

DATE : 09.12.2021.

ORAL JUDGMENT :

1. Heard Mr. C. A. Anthony, learned Counsel for the appellant, and Mr. V. D. Awchat learned Counsel for legal representatives of respondent No.1 (original claimant.)

2. The challenge in this appeal is to the judgment and award dated 29.03.2004 made by the Motor Accidents Claims Tribunal (Tribunal) awarding the claimants compensation of Rs.36,000/- for injuries sustained by the claimants due to the accident involving a Bullet Motorcycle bearing registration No. MH-31/C-8098.

3. Mr. Anthony, learned Counsel for the appellant - Insurance Company submits that as on the date of the accident, this motorcycle was never insured with the Insurance Company and therefore, the Tribunal erred in foisting the liability on the Insurance Company. He pointed out that the claimants had not pleaded any details about the transfer of this motorcycle or its change of registration number. He pointed out that even the owner had not pleaded anything about the transfer and change of registration number. He pointed out that a carbon copy of the Insurance Policy produced on record was not even proved in accord with the law. He, therefore, submits that the impugned

award to the accident is foisted the liability of the Insurance Company warrants interference.

4. Mr. Awchat, learned Counsel for the claimants points out to the pleadings on record and submits that there was no challenge to the production of the carbon copy of the Insurance Policy. He submits that the Insurance Policy goes with the vehicle and any issues of transfer are quite irrelevant. In the alternate, he submits that the claimants cannot be made to suffer on such issues and a pay and recover order can be made.

5. I have considered the rival contentions. Mr. Anthony, learned Counsel for the appellant is not correct in submitting that there are no pleadings in this matter. The claimants cannot be expected to plead to this matter but opponent No.1, has clearly pleaded about how the vehicle was transferred and the changes effected with the Regional Transport Authority, Nagpur, and even the copy of the documents evidencing the changes were enclosed along with the written statement.

6. In contrast, the Insurance Company in its written statement/reply very vaguely urged that the vehicle in question was not insured and the policy was not in existence. Based on such vague pleadings, there is no question of accepting the case now sought to be put up by the Insurance Company in this appeal.

Besides, the Tribunal has noted that the carbon copy of the Insurance Policy was also placed on record. There is nothing to suggest that the Insurance Company objected to such placing of the documents on record for its consideration. The least that was expected from the Insurance Company was to object to such production or take out appropriate proceedings to challenge such production. At this stage, therefore, no case is made out to interfere at the behest of this Insurance Company.

7. For the aforesaid reasons, this appeal is dismissed. There shall be no order for costs.

8. The amount deposited in this Court can now be withdrawn by the claimants - legal representatives of respondent No.1 together with the interest that may have accrued thereon

9. The registry to facilitate such withdrawal expeditiously.

10. The appeal is disposed of accordingly.

11. Pending application(s), if any, stand(s) disposed of.

(M. S. SONAK, J.)