

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

905 FIRST APPEAL NO.2863 OF 2009

The Oriental Insurance Co. Ltd.
Branch : Buldhana,
Divisional Office Aurangabad
Through Sr. Divisional Manager,
Adalat Road, Aurangabad. **.. Appellant**

VERSUS

1. Vishnu Tatyarao Barde,
Age: 30 yrs., Occ : Agril. & Tailoring,
R/o. Fattepur, Tq. Bhokardan, Dist. Jalna.
2. Mohd. s/o. Shafiq Kadari,
Age: 28 yrs, Occ : Business,
R/o. New Bhokardan, Tq. Bhokardan,
Dist. Jalna.
3. ICICI Lombad General Insurance Co. Ltd.
Bandra Kurla Complex,
Through its Branch Manager,
Aurangabad.
4. Ashok Uttamrao Gaikwad,
Age: 25 Yrs. Occ : Driver,
R/o. Fattepur, Tq. Bhokardan,
Dist. Jalna. **.. Respondents**

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Advocate for Appellant : Mr.R.F.Totala
Advocate for Respondent no.2 : Mr.P.P.Deshpande
Advocate for Respondent nos.1, 3 and 4 : Mrs.M.V.Narwade

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CORAM : S.G.DIGE, J.
DATE : 13.07.2022

PER COURT :

1] The learned counsel for the appellant submits that the appellant has challenged the order passed by the learned Chairman, Motor Accident Claims Tribunal, Jalna under Section 140 of the Motor Vehicle Act and has deposited some amount before this Court as per the order of this Court. Now, the respondents have realized that the stand taken by the appellant is correct. The policy produced before the Tribunal is fake and fabricated. Now, the respondents want to delete the appellant as party respondent in pending claim petition, hence, requested to dispose of this appeal.

2] The learned counsel for the respondent no.1, on instructions, submits that he wants to delete the appellant as party respondent before the learned Motor Accident Claims Tribunal, Jalna, hence, this appeal can be disposed of as per the submission of the learned counsel for the appellant.

3] Heard both the learned counsel. The appellant has challenged the order passed by the learned Motor Accident Claims Tribunal, Jalna, under Section 140 of the Motor Vehicle Act. The learned Tribunal has directed to pay Rs.25,000/- jointly and severally. Accordingly, the appellant has deposited 50% amount before this Court. It is the case of the appellant that insurance policy issued by the appellant in respect of vehicle involved in the accident is fake. On that ground the appellant has challenged the order under Section 140 of the Motor Vehicle Act. The respondent no.1, who is the original claimant, has agreed it and wants to delete the appellant as party respondent in the pending claim petition before the Tribunal and requested to dispose of this appeal.

4] Considering the submissions of both the learned counsel, I pass the following order :-

ORDER

i] The order dated 27.07.2009 passed by the learned Motor Accident claims Tribunal, Jalna, below Exh.5

in MACP No.169/2008 is quashed and set aside in respect of the appellant i.e. respondent no.1.

ii] R.& P. be sent back.

iii] The amount deposited by the appellant be refunded as per the Rule.

iv] If any amount is withdrawn by the respondent no.1 deposited by the appellant be returned to the appellant.

v] Accordingly, First Appeal is disposed of.

[S.G.DIGE]
JUDGE

DDC