IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3656 OF 2020
IN
FIRST APPEAL (ST) NO.32762 OF 2012
WITH
FIRST APPEAL (ST) NO.32762 OF 2012
WITH
CIVIL APPLICATION NO.722 OF 2013
WITH
CIVIL APPLICATION NO.721 OF 2013
WITH
CIVIL APPLICATION NO.283 OF 2021

Mr. Umakant Dashrathilal Dubey Applicant

IN THE MATTER BETWEEN

The New India Assurance Co. Ltd. ...Appellant
Vs
Mr. Umakant D. Dubey & Ors. ... Respondents

...

Mr. D.R.Mahadik for the Appellant in FAST No.32762/12 and CAF 722/2013 and for respondent in IA 3656/20.

Mr. Rajesh P. Behere with Mr. Rahul Singh and Ms. Pranali Raut, advocates for applicant in IA/3656/2020 and for R.No.1 in FAST 32762/2012.

CORAM : SANDEEP K. SHINDE J.
DATE : JANUARY 24, 2022.
(Through Video Conferencing)

P.C. :

Heard Mr. Behere, learned counsel for the applicant (Original Claimant) and Mr. Mahadik, the learned counsel for the respondent (Original Opponent-Insurer).

2 Applicant seeks leave to withdraw a part of the compensation awarded by the Member, Motor Accident Claims Tribunal, Thane in MACP No.906 of 1999 by which the original opponent nos.1 to 3 jointly and severally were directed to pay Rs.2,11,636/- to applicant including the amount of No Fault Liability under Section 140 of the Motor Vehicles Act.

3 Mr. Mahadik, learned counsel for the Insurer would contend that at the material time, policy of the vehicle in question was not in force.

4 The learned Member in the impugned order has observed that, although Insurance Company, has taken the stand that policy was cancelled since cheque of renewal, was bounced, however, neither evidence on this fact-in-issue was adduced nor Insurance

Company stepped in the witness-box.

5 In consideration of this finding, the learned Member has answered the issue otherwise that the vehicle in question was insured at the material time, when the accident occurred.

6 Be that as it may, the accident in question took place in October, 1999, but, except the amount payable under the, 'No Fault Liability', the claimant has not received compensation over a period more than twenty-two years.

7 In that view of the matter, the Tribunal shall allow the applicant no.1 to withdraw Rs.1 Lakh with proportionate interest occurred thereon on an Undertaking that in case, insurer succeeds in appeal, claimant shall bring back the money as per the order, that may be passed in the First Appeal.

8 Civil Application 3656 of 2020 is allowed in the aforesaid terms and disposed of accordingly.

List the appeal for the final hearing in a week commencing from 7th March, 2022.

(SANDEEP K. SHINDE, J.)