IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1071 OF 2022

Reliance General Insurance Co. Ltd. ...Appellant
Versus
Sanjay Gopal Mali and Anr. ...Respondents
...
Ms Shalini Shankar for the Appellant.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 17th OCTOBER, 2022.

P.C. :-

1. The Appellant has challenged order dated 06/01/2022 passed by the Claims Tribunal, Mumbai in Claim Application No.91 of 2018 under Section 140 Motor Vehicles Act. By the impugned order the Claims Tribunal directed the Appellant-Insurance company to pay to the Claimants compensation of Rs.25,000/- towards no fault liability.

2. The Respondent herein, who was the original Claimant had filed an application under Section 166 of the MV Act in view of the injuries sustained in a motor vehicular accident on 03/06/2017 involving car No.MH 12 KN 2964. The Respondent –Claimants have alleged that the said vehicle was insured with the Appellant-Insurance

Company. The Appellant disputed its liability to pay the compensation on the ground that it had not insured the offending vehicle.

3. The Tribunal observed that the Claimant had produced the policy bearing No.1104262338007892 for the period from 06/02/2017 to 05/02/2018 under Cover Note No.R4669107384 in respect of the vehicle No.MH 12 KN 2964 Engine No.338846 and Chasis No.362101. The Tribunal relied upon the decision of this Court in ***Ergo General Insurance Co. Ltd. Vs. Kalpana and Ors in First Appeal No.777 of 2014*** wherein it was held that the defence regarding breach of terms and conditions of the policy in question whether the policy was fake and bogus should not be considered at interim stage and that it should normally be considered at the time of final decision of the matter. Relying upon the decision of this Court in ***United India Insurance Co. Ltd. Vs. Trimbak Dadarao Phad and Ors. I(2020) ACC 454 (Bom.)*** the Tribunal observed that the Claimants cannot be deprived of the compensation on the ground, which is yet to be proved. Aggrieved by this order, the Appellant-Insurance Company has filed this appeal.

4. At the outset, it may be mentioned that the object of section 140 of Motor Vehicles Act which is based on the principal of “no fault

liability", is to provide immediate financial help to the victims in case of death or permanent disablement as a result of motor vehicular accident. The compensation payable under section 140 of MV Act is in addition to the compensation payable under any other law in force except compensation under section 163A.

5. While deciding such applications, it is imperative for the Claims Tribunal to arrive at a finding that the accident as alleged did take place resulting in death of a person or permanent disablement due to the injuries sustained in the accident and having regard to the facts stated in the claim petition, prima facie the risk was covered by the insurance policy. It has to be borne in mind that Section 140 of MV Act is a welfare legislation and such proceedings are to be decided in summary manner. The mandate of sub-section (2) of Section 141 is to dispose of the claim for compensation under section 140 as expeditiously as possible. Hence, conducting indepth inquiry into the defence under section 149(2) at this stage would defeat the very object of this provision.

6. Furthermore, the interim compensation received under sub-section 2 of section 140 of MV Act gets merged with the compensation adjudicated on the principal of 'fault liability' under section 166 of the

Motor Vehicles Act. Hence, a full fledged inquiry into such defence can always be made in claim petition under section 166 of MV Act. In the event the Insurance Company eventually succeeds in its defence under section 149(2) and the Tribunal holds that the Insurance Company is not liable to indemnify the insurer, section 149(3) permits the insurer to recover such an amount from the insurer/owner of the vehicle in question.

7. In the instant case, the Claimants had placed on record copy of the policy. A perusal of which prima facie indicates that the offending vehicle was insured with the Appellant as on the date of the accident. The defence raised by the Appellant-Insurance Company needs to be considered at the stage of trial. Hence, the Claimants cannot be deprived of the compensation on the basis of the defence which is yet to be proved. The question whether the vehicle is insured or the policy produced by the Appellant is fake shall be decided on merits and the payment made under Section 140 shall be subject to final outcome of the trial.

8. Under the circumstances, the appeal is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

MEGHA S PARAB Digitally signed by MEGHA S PARAB Date: 2022.11.09 11:20:34 +0530