IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.325 OF 2021

SBI General Insurance Co. Ltd. ...Appellant

Versus

Sunil Chintaman Risbud and Anr. ...Respondents

...

Ms Ishita Bhole i/b. Mr. Saumen S. Vidyarthi for the Appellant.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 10th NOVEMBER, 2022.

P.C. :-

1. The Appellant has challenged order dated 24/03/2021 passed by the Claims Tribunal, Mumbai in M.A.C.P. No.343 of 2019 under Section 140 of the 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 12/12/2018 involving car No.MH 43 D 8581, allegedly insured with the Appellant-Insurance Company.

3. The Appellant disputed its liability to pay compensation on the ground that it had not insured the offending vehicle. The Appellant asserted that the policy produced by the Claimants is a fake policy. The Insurance Company placed on record copy of a policy with the same number, which pertains to another vehicle.

4. The Tribunal observed that copy of the policy produced by the Claimant is attested by the Police Inspector and the same policy bears No.HSB0090568, whereas the number of insurance policy produced by the insurer is 902568. Following the decision of this Court in ***HDFC Ergo General Insurance Co. Ltd. Vs. Kalpana and Ors in First Appeal No.777 of 2014*** and ***United India Insurance Co. Ltd. Vs. Trimbak Dadarao Phad and Ors. I(2020) ACC 454 (Bom.)*** the Tribunal observed that the issue raised by the Appellant -Insurance Company cannot be considered at the interim stage and accordingly allowed the application. Aggrieved by this order, the Appellant-Insurance Company has filed this appeal.

5. 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.

6. 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.

7. 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.

8. In the instant case, the Claimant had placed on record copy of the policy, which prima facie indicates that the offending vehicle was insured with the Appellant as on the date of the accident. The question whether the vehicle is insured with the Appellant under Policy No.HSB0090568 or whether the policy produced by the Appellant is fake shall be decided on merits. Until such time the Claimant cannot be deprived of interim compensation, which shall be subject to final outcome of the trial.

9. Under the circumstances, the appeal is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)