IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD

68 CIVIL APPLICATION NO. 8264 OF 2023
IN FIRST APPEAL NO.2750 OF 2023

SMT LAHANABAI SITARAM GOYEKAR AND OTHERS
VERUS
UNITED INDIA INSURANCE COMPANY LTD THROUGH ITS ADMINISTRATIVE OFFICER AND ANOTHER

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Mr. P.C. Mayure – Advocate for Applicants
Mr. S.S. Rathi – Advocate for Respondent No.1

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CORAM : SANDIPKUMAR C. MORE, J.
DATE : 7th August, 2023

PER COURT :

1. Heard rival submissions.

2. The applicants are seeking withdrawal of the entire amount of compensation, which has been deposited by the Insurance Company alongwith the interest accrued thereon.

3. The learned Counsel for the Insurance Company strongly opposed the application on the ground that, there was no cover to the deceased on the day of accident since, the Insurance Policy for the offending vehicle was issued on the next day of accident and the premium was also accepted on

that day only i.e. on 07.05.2014. Admittedly, the accident had taken place on 06.05.2014.

4. However, there is one cover note on record in respect of the said offending vehicle which appears to be issued on 09.04.2014 on accepting required premium of Rs.4,340/- for the period from 09.04.2014 to 08.04.2015. The evidence on record shows that, the witness of the Insurance Company Mr. Pravinkumar at Exh.56 appears to have admitted certain contents of the same and hence it was exhibited. Further, it appears that the issuance of said cover note is not disputed as observed by the learned Tribunal. Moreover, the evidence of concerned person from the finance company who provided financial assistance to the owner of offending vehicle has also stated that, at the time granting finance the person from Insurance Company on accepting the premium amount had issued the aforesaid cover note (Exh.59). Further, the witness from the Insurance Company also admitted in his cross-examination that after issuing such cover note, he did not issued policy within 15 days but issued it on the next date of accident.

5. Though there is controversy between the parties on the issue of coverage of the insurance but the record prima – facie shows that, the Insurance Company had issued the said cover note mentioning the period of coverage from 09.04.2014 to 08.04.2015. Therefore, considering the same the applicants are permitted to withdraw 75% of the deposited amount of compensation alongwith the proportionate interest accrued thereon till date on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court as per apportionment done by the learned Tribunal.

6. The remaining amount be kept in F.D.R. in any nationalized Bank on yearly renewal basis till final disposal of this appeal.

7. The civil application is accordingly disposed of.

[SANDIPKUMAR C. MORE]
JUDGE