



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

52 FIRST APPEAL NO. 4143 OF 2023
WITH
CIVIL APPLICATION NO. 12727 OF 2023
IN FA/4143/2023
WITH
CIVIL APPLICATION NO. 47 OF 2024
IN FA/4143/2023
WITH
CA/53/2024 IN FA/4166/2023
AND
CA12729/2023 IN FA/4166/2023

NEW INDIA ASSURANCE CO LTD THROUGH ITS BRANCH
MANAGER, AUSA ROAD LATUR THROUGH AUTHORISED
SIGNATORY

VERSUS

SONALI GOVIND NALWAD AND ORS

...

Advocate for Appellant : Mr. Kadethankar Ajit B.
Advocate for Respondent Nos. 1, 2 and 4 : Mr. Patel Fayaz K.

...

AND

53 FIRST APPEAL NO. 4144 OF 2023
WITH
CIVIL APPLICATION NO. 12732 OF 2023
IN FA/4144/2023
WITH
CIVIL APPLICATION NO. 19 OF 2024
IN FA/4144/2023

NEW INDIA ASSURANCE CO LTD THROUGH ITS BRANCH
MANAGER, AUSA ROAD, LATUR

VERSUS

ANUJA AMOL CHILAME AND ORS

...

Advocate for Appellant : Mr. Kadethankar Ajit B.
Advocate for Respondent Nos. 5 & 6 : Mr. Patel Fayaz K.

...

AND

54 FIRST APPEAL NO. 4145 OF 2023
WITH
CIVIL APPLICATION NO. 12737 OF 2023
IN FA/4145/2023
WITH
CIVIL APPLICATION NO. 48 OF 2024
IN FA/4145/2023

NEW INDIA ASSURANCE CO LTD THROUGH ITS BRANCH
MANAGER, AUSA ROAD, LATUR
VERSUS
KANCHAN PRADEEP CHOLE AND ORS

...

Advocate for Appellant : Mr. Kadethankar Ajit B.
Advocate for Respondent Nos. 1 to 5 : Mr. Patel Fayaz K.

...

AND

55 FIRST APPEAL NO. 4167 OF 2023
WITH
CIVIL APPLICATION NO. 12734 OF 2023
IN FA/4167/2023
WITH
CIVIL APPLICATION NO. 18 OF 2024
IN FA/4167/2023

NEW INDIA ASSURANCE CO LTD THOROUGH ITS BRANCH
MANAGER, AUSA ROAD, LATUR
VERSUS
ARUNA RAMRAO GUNDALE AND ORS

WITH
FA/3015/2023
WITH
FA/3016/2023
WITH
FA/3017/2023
WITH
FA/3018/2023
WITH
FA/3019/2023

...
Advocate for Appellant : Mr. Kadethankar Ajit B.
Advocate for Respondent No. 1 : Mr. Patel Fayaz K.
...

AND

FA/4166/2023
WITH
CA/12729/2023
WITH
CA/53/2024

CORAM : KISHORE C. SANT, J.

DATE : 09 JULY, 2024.

PER COURT :

1. Heard the parties.
2. The learned Advocate for the appellant at this stage

points out that in the impugned judgment of the learned Tribunal there is no discussion on issue No. 5, which reads as under :

“Whether Respondent No. 3, i.e. respondent No. 1 has committed breach of terms and conditions of the policy.”

3. There is not a single line of discussion in the entire judgment on this issue. Therefore, prays for remand of the proceedings to the trial Court.

4. The above submission is strongly opposed by the learned Advocate for the Claimants/Respondents. He submits that there is no merit in the appeal at all. In the trial Court, in support of their case of breach of conditions no evidence was produced. He placed on record a photo copy of the pursis Exh. 43, wherein, the appellant/respondent No.3 before the learned Member, MACT has filed pursis closing the evidence. He then submits that if the matter is remanded it would be re-opening of the matter again.

5. This Court however, finds that it was necessary for the learned Member, MACT to give the reasoning on issue No. 5

once it was framed on the basis of whatever material available on record. Hence this Court is inclined to pass following order :

ORDER

a) The appeals are partly allowed MACP No. 12 of 2020, 13 of 2020, 15 of 12020, 16 of 2020 and 14 of 2020 stand remanded to the trial Court.

b) The trial Court shall record the finding only on issue No. 5 on the basis of whatever material available on record without recording fresh evidence and by giving hearing, if necessary, to the parties.

c) The said exercise be done within two months from the date of receipt of the Writ of this Court and in any case prior to 31.10.2024.

d) The respective Claimants are entitled to receive 50% of the amount alongwith accrued interest to their extent.

e) Remaining 50% amount be retained in this Court since the Claimants have also filed the appeals for enhancement.

f) Parties to appear before the trial Court on 29.07.2024.

g) It is reported that the R & P is received by this Court in the appeals filed by the Claimants, the same be sent back to the trial Court forthwith.

h) Pending Civil Applications stand disposed off.

(KISHORE C. SANT)
JUDGE

mahajansb/