IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 1384 OF 2019

Reliance General Insurance Co. Ltd.)
Through its Corporate Office)
4th Floor, Chintamani Avenue)
Off Western Express Highway,)
Goregaon East)
Mumbai – 400 063) ….Appellant
(Orig. Opponent)

Versus

1. Aruna Arvind Ingavale)
Age: 42 years, Occ: Household) … Org. Applicant No.1

2. Ajay Arvind Ingavale)
Age: 20 years, Occ: Education) … Org. Applicant No.2

3. Amar Arvind Ingavale)
Age: 18 years, Occ: Education) … Org. Applicant No.3

4. Amol Balkrishna Phadtare)
Age: 30 years, Occ: Motor Cycle)
Owner and rider)
Resident of Kodoli,)
Taluka and District Satara) … Org. Opponent No.1

....Respondents

Mr. Rahul Mehta i/b KMC Legal Venture, Advocate for the Appellant.
Mr. Pritesh K. Bohade , Advocate for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 28th FEBRUARY, 2024.

Oral Judgment. :

1. The issue involved in this appeal is Insurance Policy produced on record was fake policy.

2. It is contention of learned counsel for the Appellant/Insurance Company that the insurance policy produced before the Tribunal by the Claimant was fake, it was issued in respect of other vehicle but, this fact is not considered by the Tribunal. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondents/Claimants that Tribunal has considered all the aspects while passing the judgment and order and no interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal, Satara (for short “the Tribunal”).

5. It is contention of learned counsel for the Appellant/Insurance Company that policy, bearing registration No.1701702339001073 produced on record in respect of offending vehicle is fake, it was issued in respect of Bajaj Auto Rickshaw bearing registration No.42-B-2602 for the validity period from 4th January, 2011 to 3rd January, 2012.

6. To prove its defense owner of motorcycle has examined himself at Exhibit-56, he has stated that on the day of accident his vehicle was insured with Appellant/Insurance Company. He has produced insurance policy on record, the insurance company has not examined any witness to prove its defense.

7. While dealing with the issue of Insurance Policy, the Tribunal has observed that the insurance policy produced by the Appellant/Insurance Company is xerox copy. It appears that the policy No. 1701702339001073 is issued in the name of Firoz Kadar

Sayyad in respect of vehicle bearing registration No. MH-42-B-2602 Baramati. The Insurance Company has not produced the original insurance policy, nor examined Firoz Kadar Sayyad. It appears that the insurance policy is issued by Tadiwala Road Branch, Pune. The policy produced by the Opponent No.1 i.e. owner of offending vehicle is issued by the Satara Branch. Considering the documentary evidence on record the Tribunal has observed that on the date of accident the insurance policy was valid. I do not find infirmity in it. In my view, if the Appellant/Insurance Company has taken the specific defense that the policy produced on record in respect of offending vehicle was fake. The Appellant/Insurance Company should have proved it by examining the witness. Though, it is contention of learned counsel for the Appellant that policy was fake but, the original policy was not produced on record by the Appellant before the Tribunal nor examined any person hence, I do not see merit in the contention that the policy produced on record before the Tribunal was fake policy.

8. In view of above, I pass following order.

ORDER

i. Appeal is dismissed.

ii. The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.

iii. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.

9. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)