IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 197 OF 2024

Reliance General Insurance Co. Ltd.)
Having its Office at 570,)
Naigaum Cross Road, Next to)
Royal Industrial Estate, Wadala)
(East), Mumbai- 400 031)....Appellant

Versus

1. Mohini Vinayak Bhegade)
   Age: 36 years, Occ: Household,)
2. Jayesh Vinayak Bhegade)
   Age: 21 years, Occ: Student,)
3. Yadnesh Vinayak Bhegade)
   Age: 19 years, Occ: Student,)
4. Ashish Vinayak Bhegade)
   Age: 19 years, Occ: Student,)
5. Shivaji Nathuram Bhegade)
   Age: 66 years, Occ: Nil,)
6. Babytal Shivaji Bhegade)
   Age: 61 years, Occ: Household,)

All residing at Tukaram Nagar,)

Talegaon Dabhade, Taluka,)
Maval, District: Pune.)

7. Amarjit Singh Prakash Sing)
Age: Adult, Occ: Business,)
Residing at H. No.12,)
Rajinder Nagar, G. T. Road,)
District : Amritsar, State Punjab)….Respondents

Mr. Pandit Kasar, Advocate for the Appellant.
Mr. Uday B. Nighod, Advocate for the Respondent Nos.1 to 6.

CORAM : SHIVKUMAR DIGE, J.

DATE : 19th APRIL, 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 that the insurance policy which is produced on record in respect of offending vehicle is fake. The witnesses were examined by the Appellant to prove the said fact but their evidence is not considered by the Tribunal. Learned counsel further submitted that insurance company is not liable to pay compensation. Hence, requested to

allow the Appeal.

3. It is contention of learned counsel for the Respondents/Claimants that in the written statement, Appellant has admitted about the issuance of policy. After two years of filing written statement, the insurance company filed an application before the Tribunal stating that on the basis of investigation report, they came to know that, the policy produced on record is fake policy but, the said investigator has not been examined before the Tribunal. The 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 the judgment and order passed by the Motor Accident Claims Tribunal, Pune (for short “the Tribunal”).

5. To prove that the insurance policy produced on record is fake policy, the Appellant/Insurance Company has examined DW-1 Hemant Bhosale, at Exhibit-50. He has deposed before the Court but when his evidence was deferred he did not turned up before the Tribunal. The Appellant has examined DW-2 Shri. Ravi Jindani at Exhibit-60. He has stated that the policy produced on record is a fake policy. He further stated that the insurance policy filed on record has

12 digit number whereas, company used to issue policy with 16 digit number. In cross-examination, he has admitted that in case when the policy was expired and, it is to be renewed there is different procedure. He further admitted that they inspect vehicle through surveyor. He does not know whether validity of cover note was only 60 days. He further admitted that as per the procedure of company they appoint investigator in every matter.

6. While dealing with the issue of fake policy, the Tribunal has observed that the initially Appellant/Insurance Company has admitted in their written statement about the issuance of the policy. The Investigator was appointed and on his report, the company came to know that the policy was a fake policy. The Tribunal has observed that neither alleged surveyor report is filed on record nor surveyor is examined on behalf of the company. The company would have examined investigator in support of their case. The Tribunal has further observed that there is absolute nothing on record to show that on what basis the company came to conclusion that the insurance policy filed on record is fake and that after two years of filing written statement. Hence, the Appellant/Insurance Company is liable to pay compensation. I do not find infirmity in it. In my view,

the Appellant /Insurance Company has filed complaint against unknown person to the police. It has been filed after completing the evidence of the Claimants, it shows that to show the Tribunal that some action is taken, the said complaint has been filed, initially. It is Appellant's case that on investigator's report they came to know that the policy produced on record is fake policy but said investigator has not been examined nor his report is produced on record. Moreover, DW-2 in his cross-examination admits that they have not made any written communication to office whose address is mentioned on the policy to which they are stating as fake. It shows that Appellant fails to prove that policy produced on record is fake policy. I do not see merit in the contention that policy produced on record is fake policy.

7. The Appeal is devoid of merit and 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.

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

(SHIVKUMAR DIGE, J.)