IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 119 OF 2012

	The New India Assurance Co.Ltd. Ro II, Jeevan Seva, 2nd Floor, Santacruz (W), Mumbai 400 054.	…	Appellant
	versus		
1	Azim Anwar Shaikh, Aged 36 years residing at G/4 Nayan, Gandhi Nagar, Near Sarvodaya Hospital, LBS Marg, Ghatkopar (W), Mumbai 400 086.		
2	Prabhat B. Nitalkar, Residing behind Ganesh Market Ulhasnagar, Dist Thane 421 003.		
3	Badrealam Karam Huain Share Inslam Hotel, Bus Depot Gaffor Khan Estate, Kurla, Mumbai 400 072.	….	Respondents

Ms. Poonam Mital, Advocate for the Appellant.
Ms. Ketki Gokhale i/b. Mr. A. M. Gokhale, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th APRIL, 2024.

Oral Judgment :

1. The issue involved in this appeal is registration of motorcycle was cancelled.

2. It is contention of learned counsel for appellant-Insurance Company that the offending motorcycle was registered in the year 1986 for 15 years, whereas the accident occurred in the year 2006. The insurance of the said vehicle was for 15 years, so 15 years from 1986 comes to an end in year 2001. At the time of the accident, the insurance

of the offending vehicle had automatically expired but these facts are not considered by the Tribunal. Learned counsel further submitted that to prove the said fact, witness from RTO Office was examined but the Tribunal has not considered evidence produced on record and has awarded compensation, which is erroneous, hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.1-claimant that the witness examined by the appellant-Insurance Company, in cross-examination, has admitted that the registration of the offending vehicle was not cancelled. When the registration was not cancelled, the insurance policy was in continuation. 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 Motor Accident Claims Tribunal, Mumbai (for short “the Tribunal”).

5. To prove its defense, the Insurance Company has examined Anant Patil, Officer from RTO. He has admitted that registration of the offending vehicle was not cancelled. He further admitted that he could not tell, on what basis, in certificate of RTO at Exhibit-38, the date 5th August 2001 is mentioned.

5.1. While dealing with the issue of cancellation of registration, the Tribunal has observed that Sub-section 8 of Section 41 of the Motor

Vehicles Act, 1988 shows that the period of registration of vehicle is for 15 years. The Tribunal has further observed that the insurer failed to prove that the registration of the offending vehicle was cancelled in the year 2001. On the contrary, by making payment under No Fault Liability claim, the insurance company impliedly accepted the insurance of the offending vehicle, therefore, the insurer is estopped from challenging the insurance of the offending vehicle. I do not find infirmity in it. In my view, it is specific defense of the appellant-Insurance Company that registration of the offending vehicle was cancelled but it has not been proved. The appeal is devoid of merit and I pass following order:

O R D E R

1. The appeal is dismissed. No order as to cost.
2. Respondent No.1/claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
3. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

6. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)