

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

FIRST APPEAL NO. 1283 OF 2023

Shriram General Insurance Co. Ltd.)
601, 'B' Wing, Raunak Arcade,)
Opposite Hospital, Gokhale Road,)
Naupada, Thane (West) – 400 602)Appellant

Versus

1. Ahmadulla Azmutulla)
Age: 73 years,)
2. Ashafiya Khautun Ahmadulla)
Age: 69 years,)
3. Mukeeba Khatun Ahmadulla)
Age: 23 years,)
4. Mukeeba Khatun Ahmadulla)
Age: 23 years,)
5. Umme Fajal Ahmadulla)
Age: 22 years,)
All residing at Village Masauni)
Bharatpur, Post. Kalinjeer,)
Naraini Banda, District: Banda,)
Uttar Pradesh – 210 129)
6. Mukhtar Ahmad)
Residing at House No. 160,)
Pimparygaon, Dahisar Mori,)
Navi Mumbai, District: Thane.)Respondents

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Mr. Pandit Kasar, Advocate for the Appellant.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th FEBRUARY, 2024.

Oral Judgment. :

1. By this Appeal, Appellant has challenged the order passed by the Motor Accident Claims Tribunal, Mumbai (for short “the Tribunal”) under Section 140 of the Motor Vehicle Act, 1988.
2. It is contention of learned counsel for the Appellant that the Appellant has taken the defense before the Tribunal that Appellant/Insurance Company never issued a Insurance Policy to the offending vehicle. The policy produced by the Claimant is a fake policy but, the Tribunal has passed the impugned order directing the Appellant to pay the compensation, which is erroneous. Hence, requested to allow the Appeal.
3. I have heard learned counsel for the Appellant/Insurance Company. Perused the order passed by the Tribunal. The Tribunal has observed that under Section 140 of Motor Vehicles Act, 1988, it is not necessary to see who is at fault. I do not find infirmity in it. In my

view, to prove the defense taken by the Appellant regarding fake policy, evidence needs to be produced before the Tribunal. The Appellant can lead evidence in support of his contention before the Tribunal while hearing of claim petition under Section 166 of the Motor Vehicle Act, 1988.

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

ORDER

- i. Appeal is dismissed.
 - ii. The Claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - iii. All contention of both parties are kept open.
 - iv. The Appellant can lead evidence in support of his contention before the Tribunal.
5. Appeal is disposed of.

(SHIVKUMAR DIGE, J.)