

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.6952 OF 2024
WITH
INTERIM APPLICATION NO.6953 OF 2024
IN
FIRST APPEAL (ST) NO.8126 OF 2024

Cholamandalam MS Insurance
Company Limited

...Appellant/Applicant

vs.

Narendra Vijayprakash Shukla and Ors.

...Respondents

WITH
INTERIM APPLICATION NO.10051 OF 2024
IN
FIRST APPEAL (ST) NO.8126 OF 2024

Narendra Vijayprakash Shukla

...Applicant

In the matter between:-

Cholamandalam MS Insurance
Company Limited

...Appellant/Applicant

vs.

Narendra Vijayprakash Shukla and Ors.

...Respondents

Mr.Rajesh Kanojia a/w Ms.Prachi Pawar i/b. Res Juris:-	Advocate for Appellant.
Mr.Yogesh Pande:-	Advocate for Respondents.

CORAM : S. M. MODAK, J.

DATE : 13th AUGUST 2024

P.C. :-

1. Heard learned Advocate Shri.Kanojia for the Appellant – Insurance Company and learned Advocate Shri.Pande for the Claimants.

2. It is in respect of withdrawal of the amount. The contention of the Appellant – Insurance Company is about '*Fake Policy*'. The Representative has given evidence. However, the grievance is, the learned Member, Motor Accident Claims Tribunal¹ - Pune has not given a finding.

3. There were certain dates which are relevant. They are as follows:-

- (a) Date of Accident : 8th February 2016
- (b) Date of Premium Receipt : 6th February 2016
- (c) Date of issuance of Policy : 11th February 2016

4. There are three (3) Policies on record. They are as follows:-

- (i) Exhibit – 68 referred by the witness for Insurance Company² of the compilation filed by learned Advocate Shri.Pande today.
- (ii) Exhibit – 69 – is the Policy shown to the witness by the Claimants³.
- (iii) Policy at Article-A on Page No.17⁴. But, the period of

1 "MACT"

2 Page Nos.12 to 15

3 It is from the documents filed by the Insurance Company only (Page No.16)

4 The date of issuance of Policy is 11th February 2016

insurance starts from 6th February 2016.

5. Mr.Kanojia wants to rely upon the following judgments:-

- (i) *Oriental Insurance Co. Ltd. v/s. Dharam Chand & Ors.*⁵
- (ii) *Shriram General Insurance Co Ltd v/s. Kamlesh Jha & Ors.*⁶
- (iii) *Branch Manager, United India Insurance Company Limited v/s. Mst.Munita Bai and Ors.*⁷
- (iv) *Oriental Insurance Co. Ltd. v/s. Mst. Fazi & Ors.*⁸
- (v) *Anil Rishi v/s. Gurbaksh Singh*⁹
- (vi) *Deddappa & Ors. v/s. The Branch Manager, National Insurance Co. Ltd.*¹⁰
- (vii) *Bharti Axa General Insurance Company Limited v/s. Gayabai Devrao Weldode and Ors.*¹¹

6. Copy is given to Mr.Pandey.

7. Stand over to 3rd September 2024. To be listed “High on Board”.

[S. M. MODAK, J.]

5 Civil Appeal No.5204 of 2003 : August 27, 2010 : Supreme Court of India

6 2023 : DHC : 3467

7 2022 : CGHC : 18549

8 CMAM No.04/2008 : 15th July 2020 : High Court of Jammu and Kashmir at Srinagar

9 [2006] SUPP. 1 S.C.R.

10 [2007] 13 (Addl.) S.C.R.

11 First Appeal No.4447 of 2016 : 25th March 2019 : Bombay High Court (Bench at Aurangabad)