



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

**INTERIM APPLICATION NO. 7117 OF 2024
IN
CIVIL FIRST APPEAL NO. 198 OF 2023**

Hiraman Namdev Ahire ...Applicant
vs.
Vasant Gangaram Pawar And Anr. ...Respondents

**ALONGWITH
INTERIM APPLICATION NO. 1940 OF 2023
IN
CIVIL FIRST APPEAL NO. 198 OF 2023**

Iffco Tokio General Insurance Company
Limited, Nashik
Thr.The Divisional Officer ...Applicant
vs.
Shri Hiranman Namdev Ahire And Anr. ...Respondents

Adv. Nikhil Mehta i/by KMC Legal Venture – Through VC	Advocate for the Appellant-Insurance Company
Rupa Singh and Rajan Pawar	Advocate for the Respondent No. 1

CORAM : S. M. MODAK, J.

DATE : 02nd SEPTEMBER 2024

P. C. :-

1. Heard learned Advocate Shri Mehta for the Appellant-Insurance Company. He fairly admits about not supplying copy of memo of an appeal to learned Advocate for the Claimants. Let it be supplied earlier

to next date. Similarly, copy of the withdrawal application be also served by Claimant to learned Advocate Shri Mehta.

2. Heard learned Advocate Shri Pawar for the Claimant and learned Advocate Shri Mehta for the Insurance Company-Appellant.

3. The Tribunal, Nashik has held owner of the Insurance Company liable to pay compensation to the tune of Rs. 2,57,000/-. Apart from other defences, Insurance Company took defence about fake insurance policy. Witnesses also examined. Documentary evidence was also given. That is reflected in para nos. 26, 27 and 28 of the impugned judgment, at page nos. 22, 23 and 24. The owner has not contested the proceedings. The only ground on which the Tribunal has negated, the defence of fake policy as difference in the registration number of the vehicle, at one place it is MST-1019 and at other places it is MTS-1019

4. According to learned Advocate Mr. Mehta this difference is not in material documents. On the basis of this submission, the following directions are issued:-

(i) Let insurance Company to file compilation of the documents.

5. Respondent No. 2-Owner-Vasant has expired. It is reflected in

the bailiff report dated 05/10/2023 as son Kashinath has given information about death of Vasant as he has expired in the year 2013.

6. Learned Advocate Mr. Mehta seeks time to take instructions.

7. Matter be kept on **18th September 2024**.

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8. Heard learned Advocate Mr. Pawar for the Claimant and learned Advocate Shri Mehta for the Appellant-Insurance Comapny.

9. Apart from other defence, defence of the fake policy was taken. There was oral and documentary evidence. However, it was rejected by the Tribunal by citing only one reason. Other evidence is not discussed.

10. It is strongly opposed for withdrawal by learned Advocate Shri Mehta.

11. Let Applicant to withdraw 25% of the amount. Hence, following Order :-

ORDER

- (i) Applicant is permitted to withdraw 25% of the deposited amount from the Tribunal on furnishing an undertaking that amount will be returned if directed by this Court.

12. Interim Application No. 7117 of 2024 is disposed of.

[S. M. MODAK, J.]