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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4882-2013 (O&M)
Date of decision : 16.02.2024

ICICI Lombard General Insurance Company Ltd. ... Appellant(s)

Versus

Ram Krishan & Ors. ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mrigank Sharma, Advocate for the appellant.

Ms. Preeti Singh, Advocate for respondent No.1.

Mr. Sanjeev Kodan, Advocate for respondent Nos.2 and 3.

ALKA SARIN, J. (ORAL)

CM-20858-CII-2013

This is an application for condonation of delay of 12 days in filing the appeal.

For the reasons stated in the application, delay of 12 days in filing the appeal is condoned. CM stands disposed off.

FAO-4882-2013

1. The present appeal has been preferred by the appellant-insurance company challenging the award dated 18.05.2013 passed by the Motor Accident Claims Tribunal, Bhiwani. Vide order dated 09.04.2014 the appeal qua the claimant-respondent No.1 was dismissed and the present

appeal survives only qua the owner and driver (respondent Nos.2 and 3 herein) for grant of recovery rights.

2. Learned counsel for the appellant-insurance company would contend that in the present case the stand taken by the appellant-insurance company was that the insurance policy was fake and that it had produced sufficient evidence on the record to show that the policy was different from the proforma of the policies which were issued by the appellant-insurance company. The learned counsel would further contend that the Legal Manager stepped into the witness box as PW1 and proved the case of the appellant-insurance company. It is further the contention of the learned counsel that the driver and the owner did not even step into the witness box.

3. *Per contra* the learned counsel for respondent Nos.2 and 3 has pointed out that the argument of the appellant-insurance company that the insurance policy was fake has rightly been rejected by the Tribunal inasmuch as there is nothing on the record to show that the policy was fake. The Tribunal has rightly held that in case the proforma was wrongly filled up by the official of the appellant-insurance company, the insured cannot be made to suffer. It was further held that no action was initiated against respondent No.2 for production of any fake policy.

4. I have heard the learned counsel for the parties.

5. In the present case the Tribunal has rejected the argument of the appellant-insurance company that the policy was fake. Though much reliance has been placed upon the proformas of the policies which had been produced, however, no evidence was produced on the record that the policy

in question was fake. Infact, qua the said policy being fake no FIR was got registered nor there is anything on the record to show that any inquiry was ever initiated. The argument of the learned counsel for the appellant-insurance company is that as per the internal code issued by the appellant-insurance company, policies starting with the code 3001 represent four wheelers and policies starting with the code 3005 represent two wheelers and the insurance policy in the present case was qua a motor-cycle whereas the certificate-cum-policy produced was bearing number 3001 meaning that it was not for a two wheeler. The said argument cannot be accepted in view of the fact that merely because the policy has been issued wrongly or by putting an incorrect code by the officials of the appellant-insurance company the insured cannot be made to suffer.

6. In view of the above, I do not find any merit in the present appeal which is accordingly dismissed. Pending applications, if any, also stand disposed off.

16.02.2024 (ALKA SARIN)
Yogesh Sharma JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO