IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

53 FIRST APPEAL NO. 1805 OF 2017

HDFC ERGO General Insurance Co. Ltd,
The Branch Manager,
Branch office at Renuka Complex,
Nageshwarwadi, Nirala Bazaar,
Aurangabad.
Through the Authorized Signatory/ Manager,
Divisional Office, Adalat Road,
Aurangabad. ..Appellant
(Orig Respondent No.3)

VERSUS

1. Ashok S/o Sonaji Ingole,
Age : 40 Years, Occ. Labour,
R/o. Manjarsumba, Taluka and
District Beed.
2. Azim Tours & Travels,
R/o. At Post Nandurghat, Taluka Kaij,
District Beed.
3. Sundr S/o Arun Tambde,
Age : Major, Occ. Driver,
R/o. Shirurghat, Taluka Kaij,
District Beed. .. Respondents

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Advocate for Appellant : Mr. Mohit R. Deshmukh
Advocate for Respondent Nos. 1 to 3 : Mr. P. C. Mayure h/f Mr. Suhas R. Shirsat

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CORAM : SANDIPKUMAR C. MORE, J.
DATED : MARCH 03, 2025

ORDER:-

1. Heard rival submission.

2. The present appeal has been filed by the Insurance Company, i.e. original respondent No.3 in Motor Accident Claim Petition No. 90 of 2016, by dissatisfied the order dated

13th February, 2017, below Exhibit No.5 of granting compensation amount of Rs. 25,000/- on the principle of ‘No Fault Liability’ as per Section 140 of the Motor Vehicles Act, 1988.

3. The learned counsel for the appellant/Insurance Company submits that, the learned Tribunal should not have directed the Insurance Company to pay the aforesaid amount of compensation as the cover note issued in this matter was in fact a fake cover note. He further pointed out that, the offence was also registered in Thane in respect of fake cover notes allegedly issued by the Insurance Company, and the investigation of the said crime has also been completed. According to him, the appellant/Insurance Company is going to adduce the evidence in respect of alleged crime in the main claim petition, by way of defence.

4. It is to be noted that the respondent No.1/claimant despite service, has remained absent, whereas learned counsel Mr. P.C. Mayure holding for learned counsel Mr. Shirsat for respondent Nos. 2 and 3 did not raise any strong objection, if the present matter is disposed off by keeping open the aforesaid defence of the Insurance Company for exonerating it from the liability of paying compensation. In fact, the learned

counsel for the appellant/Insurance Company has made such request.

5. As such, by keeping open the issue of liability of Insurance Company, by raising such defence, by the Insurance Company itself, before the concerned Tribunal, the appeal stands disposed off without making any observations on merits.

6. The concerned learned Motor Accident Claims Tribunal shall decide the main petition as early as possible and within one year from the date of this order.

7. The amount deposited by the appellant/Insurance Company in this appeal be transmitted to the concerned Motor Accident Claim Tribunal along with the accrued interest thereon till date with direction that it should not be disbursed to the claimants till final disposal of the main claim petition.

8. The record and proceedings be sent back to the concerned Motor Accident Claim Tribunal forthwith.

(SANDIPKUMAR C. MORE, J.)

Y.S. Kulkarni