IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

FIRST APPEAL NO.357 OF 2023

Divisional Manager, IFFCO Tokio General Insurance Co. Ltd., Sadar, Nagpur
vs.
Durga wd/o Hiraman Kumbhare and ors.

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri A. J. Pophlay, Advocate for the appellant,
Ms Priyanka Lakhanpal, Advocate for respondent nos.1 to 3.
Shri T. M. Zaheen, Advocate for respondent No.4.

CORAM : ABHAY J. MANTRI, J.
DATED : 26-08-2025

Original respondent No.2 i.e. Divisional Manager, IFFCO Tokio General Insurance Co. Ltd. being aggrieved by the order dated 20/02/2019 passed by the learned Member of the Motor Accident Tribunal-3, Nagpur (hereinafter referred to as –"***the Tribunal***") below Exhibit-5 in Claim Petition No.783/2018 whereby the application filed by the claimants was allowed and the respondents were directed to pay compensation of Rs.50,000/- towards no fault liability to the claimants within 30 days from the date of order. Hence, this appeal.

2. Heard the learned Advocate for the appellant and respondent Nos. 1 to 3. None appeared for respondent No.4, though served. Perused the impugned order and record.

3. At the outset, it is the case/defence of the appellant that it has never issued the insurance policy to insure the motorcycle bearing registration No.MH-31-CU-1034. However, the Tribunal has erred by taking the quotation number as an insurance policy number. In fact, that was the quotation number, which is not a valid policy number, nor was the mode

of payment mentioned. The tribunal has erred in misinterpreting it as a policy number. The insurance company never issued the policy number or policy to insure the motorcycle in question. Without considering the said fact, the learned Tribunal has erred in allowing the application and directing the respondents Nos. 1 and 2/Insurance Company to pay the amount for No Fault Liability to the extent of Rs. 50,000/-.

4. On the other hand, it is the case of the claimants that the motorcycle in question was involved in the accident, which was insured with the appellant insurance company; therefore, the owner and insurance company of the said motorcycle are jointly and severally liable to pay the compensation to them.

5. A query was put to the learned Advocates for both parties as to how the controversy that has arisen about whether, at the time of the accident, the said motorcycle was insured with the insurance company or not? Or can the controversy that has arisen, whether, at the time of the accident, the said motorcycle was insured with the insurance company or not, be resolved without evidence?

6. In response to the above query, at this stage, the learned Advocates for both parties submitted that they are ready to conduct the original Claim Petition, as the controversy that has arisen between the parties could not be determined without adducing the evidence by the parties. Accordingly, both the learned Advocates have agreed to conduct the claim petition pending before the learned Tribunal on merits. In view of the above, they urged to dispose of this appeal.

7. As such, the learned Advocate for the appellant further submitted that the appellant has already deposited the amount towards '*No Fault Liability*' in the Court, so the said amount be transmitted to the Tribunal and till the disposal of the original claim petition, the claimants be restrained from withdrawing the same, for which the learned Advocate for the claimants is disagree.

8. However, considering the controversy between the parties whether the insurance policy was issued or not, it is difficult to decide the controversy between the parties in absence of the reliable evidence and therefore it would be appropriate to direct both the parties to conduct the claim petition pending before the Tribunal and till then the amount deposited by the Insurance Company is required to be kept in Fixed Deposit till disposal of the claim petition.

9. In view of the above submissions and the controversy that has arisen in the matter, and till it is resolved, in my view, it would be appropriate to keep the order dated 20/02/2019 passed by the Tribunal in abeyance till the disposal of the claim petition.

10. As a result, the appeal is disposed of with the following directions :

(i) The order dated 20/02/2019 passed by the learned Tribunal below Exhibit-5 in claim petition No. 783/2018 shall be kept in abeyance till the disposal of the claim petition

(ii) The learned Tribunal is directed to decide the Claim

Petition No.783/2018 expeditiously as early as possible **within six months** from the appearance of the parties before it.

(iii) The amount deposited by the Insurance Company towards payment of “*No-Fault Liability*”, along with accrued interest thereon, shall be transmitted to the Tribunal forthwith. The same shall be invested in a Fixed Deposit till the disposal of the claim petition.

(iv) The parties have agreed to appear before the Tribunal on 01/10/2025.

(v) The application/s, if any, pending be disposed of.

(ABHAY J. MANTRI, J.)

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