Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.166 OF 2024
WITH
INTERIM APPLICATION NO.1484 OF 2024
IN
FIRST APPEAL NO.166 OF 2024

HDFC ERGO General Insurance Company Limited, Thane.	…Appellant/ Applicant
Versus	
Vanita Dattaram Sutar and anr.	…Respondents

Mr. Sarthak Diwan, for the Appellant/Applicant.
None for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 2nd FEBRUARY, 2026.

PC:-

1. None for the Respondents.

2. Heard learned counsel for the Appellant.

3. This appeal is filed by the Insurer takes exception to the judgment and award dated 10th August, 2023 passed in M.A.C.P. No.225 of 2014, whereby injury claim came to be allowed by directing claim of compensation with interest at the rate of 7.5 % p.a. from the date of petition till realization of amount.

PRIYA RAJESH SOPARKAR Digitally signed by PRIYA RAJESH SOPARKAR Date: 2026.02.06 10:58:58 +0530

4. This appeal takes exception to the impugned judgment and award essentially on the ground that the Tribunal has committed error in not considering any defence of fake policy, so also evidence before the Court.

5. Learned counsel for the Appellant submits that not only in the written statement the defence of fake policy is raised, but the Insurer had led evidence of witness which according to him indicates that the policy relied upon by the Claimants is fake policy. It is sufficient that the evidence is in the nature of undertaking with regard to the general policy. It is also submitted that code is also absent in the said policy which indicates that the policy in question is fake. Even though the Insurer has taken specific plea with regard to the fake policy, the question is as to whether the said contention has been proved by leading cogent evidence.

6. Perusal of the findings recorded by the Tribunal in paragraphs Nos.17 and 18 of the judgment and award indicates that the letter was issued to the Opponent on 27th September, 2022 inspite of summons of the Court on 1st October, 2014.

7. Apart from this, it seems that a mere formality was done by issuing letter without taking any follow up. Moreover, there was no intimation to the Insurer about the fake policy. Again with regard to the said evidence, the Insurer has not succeeded in proving the defence of the fake policy.

8. As a result of above discussion, I pass the following order:-

ORDER

(i) First Appeal stands dismissed.

(ii) The Claimants are permitted to withdraw the deposited amount alongwith accrued interest thereon.

(iii) The statutory amount be transmitted to the Tribunal alongwith accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

(iv) Record and proceedings be sent back to the Tribunal.

9. In view of the disposal of the appeal, interim applications, if any, also stand disposed of.

(R. M. JOSHI, J.)