Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO. 3198 OF 2024
WITH
INTERIM APPLICATION NO. 11128 OF 2024
IN
FIRST APPEAL (ST) NO. 3198 OF 2024

IFFCO TOKIO General Insurance Co. Ltd. …Appellant
Versus
Ravindra Harishchandra Satam And Ors. …Respondents

Mr. Rajesh Kanojia, for the Appellant.
Mr. Bharat Gadhavi, for the Respondents in FAST/3198/2024 and for the Applicants in IA/11128/2024.

CORAM: R. M. JOSHI, J.

DATED: 28th JANUARY 2026

PC:-

INTERIM APPLICATION NO. 11128 OF 2024

1. This Application is filed by the original claimants for withdrawal of the amount of compensation deposited by the ppellant/Insurer before the Tribunal in view of the Judgment and Award dated 15th July, 2023, passed in MACP No. .2382 of 2013.

2. Learned Counsel for the applicant/original claimants submits that the Tribunal has rightly taken into consideration the evidence on record and has held that the insurer has failed to prove that the policy relied upon by the claimants is a fake policy.

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3. In this regard, he drew attention of the Court to the findings recorded and observations made by the Tribunal in paragraph Nos. 13 to 18 of the impugned Judgment and Award. It is his submission that the insurer has failed to place on record the investigation report and, therefore, rightly adverse inference has been drawn by the Tribunal against the insurer. It is also argued that the witnesses of the insurer have accepted the authorization of the agent who had issued the policy in question. It is also argued that the witness No.2 of the insurer has accepted the name of agent so also the date of the cheque issued by the insurer in respect of the policy. On all these contentions, it is his submission that since the claimants have succeeded their claim before the Tribunal, it is a fit case for allowing the withdrawal the amount of compensation deposited by the insurer.

4. Learned Counsel for the insurer submits that the insurer has placed on record the policy at Exh. 40 indicating that the same was issued after the occurrence of the accident and the cheque issued by the insurer also indicates that the same is dated 17th January, 2013 and, therefore, it cannot be said that the policy relied upon by the claimant is genuine.

5. Since the Appeal is filed by the insurer with specific contention of the policy in question relied upon by the claimant to be fake policy, this Court is *prima facie* required to see as to whether, the insurer was able to substantiate the said case. The observations made by the Tribunal to the impugned Judgment and Award indicates that the Exh. 40 i.e. policy issued in favour of the insured of the offending vehicle is placed on record before the Tribunal. This shows that the policy in question was issued after the occurrence of the accident. Coupled with the said policy, the document placed on record by the claimant in the compilation filed before this Court shows that the cheque in respect of the said policy was dated 17th January, 2013 and it was realized on 31st January, 2013. *Prima facie,* therefore, there is sufficient material on record to hold that the appellants have a fair chance of suceess in Appeal. In such circumstances, the claimants cannot be permitted to withdraw the amount of compensation deposited by the insurer.

6. As a result of above discussion, the Application stands dismissed.

FIRST APPEAL (ST) NO. 3198 OF 2024

1. Heard.

2. **Admit.**

3. Call Record and Proceeding.

(R. M. JOSHI, J.)