Navnath Waghmare (P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 650 OF 2025

Cholamandalam Ms General Insurance Co. Ltd **....Appellant**

Versus

Baban Babu Vaghere And Anr **...Respondents**

Mr. Sarthak Diwan for the Appellant

Mr. T.J. Mendon for the Respondents

CORAM: R. M. JOSHI, J.

DATED: 07th March, 2026

PC:-

1. By consent of both sides, heard finally at the admission stage.

2. This appeal filed by the Insurer takes exception to judgment and award dated 20.09.2024 passed by Tribunal in Motor Accidents Claim Peitition 1042 of 2017, whereby injury claimed to be allowed, directing payment of compensation of Rs. 4,46,108/- along with interest @ 7% per annum.

3. Insurer takes exception to the impugned judgment and award on the ground that though the insurer has succeeded in proving its defence on fake policy, tribunal has erred in not accepting the case of the insurer and even refusing to pass order of pay and recover.

4. Learned Counsel for the insurer submits that specifc plea was raised before the Tribunal by filing written statement with regard to the take policy. It is further submitted that apart from this raising the said issue, evidence of witness Shri. Hemant Gaonkar, Manager, was led before the Tribunal. It is his submission that apart from oral evidence, the insurer has relied upon the premimum register, notice issued to the Shahpur Police Station with acknowledgement etc. It is his submission that inspite of the said evidence on record, Tribunal erroneously fasten liability of payment of compensation on the insurer.

5. Learned counsel for the claimants supports impugned judgment and award.

6. There is no doubt the insurer has taken a plea of fake policy in the written statement and also examinied witness. However, cross-examination was conducted on behalf of claimant and admission given by the witness of the insurer indicates that no notice was given to the insurer with regard to the fake policy. So also, there was no communication to the RTO for the correction of the record in respect of insurance policy. Needless to say that in order to succeed in defence of fake policy, it is obligatory on the part of the insurer to give notice to the insured, so also to the RTO. Notice to insurer is necessary in order to enable him to place appropriate material on record to justify the genuineness of the policy. In absence of any such evidence, tribunal committed no error in rejecting the claim of insurer.

7. In view of above discussion, there is no merit left in the appeal. Accordingy appeal stands dismissed.

8. Statutory deposit be transferred for disposal in accordance with rules.

(R. M. JOSHI, J.)