

EXH. O-

**BEFORE DR. PRIYA P. SHINDE, COMMISSIONER FOR
EMPLOYEES' COMPENSATION AND JUDGE,
SEVENTH LABOUR COURT, MUMBAI.**

APPLICATION (ECA) NO. 325/B-86 OF 2022

CNR No. MHLC1002032-2022

Soniya Sagar Mohite and Anr.

...Applicants

Versus

Ganesh Vitthal Jagtap

...Opponent No.1

And

HDFC Ergo Gen. Insurance Co. Ltd.

...Opponent No.2

ORDER BELOW EXH. CA-3

(Passed on 12/09/2024)

1. The present application filed by the opponent no. 2 under order XI Rule 12 and 13 of Civil Procedure Code for directing the opponent no. 1 for production of documents. The opponent no. 2 submitted that, the aforesaid matter applicant produced copy of insurance policy No. 2312101153445600000 for the period from 11/01/2022 to 10/01/2023 in respect of vehicle (Motor Truck- Tata No. 1613) bearing No. Mh-06-AC-1639 in favour of opposite party no. 1 herein. This opponent no. 2 says and submits that the vehicle bearing no. MH-06-AC-1639 was not insured with this opponent no. 2 at the time of accident. The said policy filed with claim application is fake, bogus and fabricate document and same has not been issued by this opponent no.

2 in favour opposite party no. 1 herein in respect of vehicle bearing no. MH-06-AC-1639.

2. It is respectfully submitted that the said original insurance policy no. 2312101153445600000 is in possession and custody of opposite party no. 1. It is necessary to verify the same, therefore opposite party should produce original insurance policy with receipt of payment of premium paid to this opponent/insurer. At this juncture, it is most respectfully and humbly submitted that this Hon'ble Commissioner has all powers to call for production of documents and material objects in exercise of powers conferred under XI Rule 14 The Code of Civil Procedure. It is prayed that this Hon'ble Commissioner may directed to opposite party no. 1 i.e. owner of the vehicle to produce original insurance policy no. 2312101153445600000 and Premium receipt of payment in respect of vehicle bearing No. MH-06-AC-1639.

3. The applicant has filed reply to this application below Exh. U-10 and submitted that, the present application filed by the applicant in the year 2023. The insurance company has not filed is written statement instead of filing written statement the insurance company file the present application and called the original insurance policy alongwith receipt of payment of premium paid to insurance from the opponent no. 1. The insurance company has not filed any documentary evidence to show that policy is fake or at the

time of accident the vehicle was not insured. Therefore the present application deserves to be rejected and matter may proceed further stage.

4. Several opportunities were given to the opponent no. 1 to file to this application but opponent no. 1 failed to file reply.

5. Perused the application and say thereon filed by the applicant. Heard Ld. Advocate for the insurance company and applicant. Considering the submissions made by the Ld. Advocate for applicant and insurance company, admittedly the applicant in his application stated that the opponent no. 1 has taken insurance policy from opponent no. 1 and application is the employee of the opponent no. 1. In such circumstances, the opponent no. 1 has required to produce the copy of insurance policy and receipt of payment of premium paid to the insurance company to show that the applicant is entitled to receive the amount of compensation from the insurance company. The opponent no. 1 has filed his reply and admitted the employer employee relationship with the applicant and also admitted the insurance policy of the said accidental vehicle. In such circumstances, if the opponent no. 1 himself admitted that his vehicle bearing no. MH-06-AC-1639 was insured with the insurance company, in such circumstances opponent no. 1 is duty bound to produce the said insurance policy on record. Thus, the present

application is hereby allowed and it is directed to the opponent no. 1 to produce original insurance policy with receipt of payment of premium pay to insurance company on next date.

Sd/-

(Dr. Priya P. Shinde)

Commissioner for Employees'

Compensation & Judge,

Seventh Labour Court, Mumbai.

Place : Mumbai.

Date : 12/09/2024.

krc/-