**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 1342 OF 2015

United India Insurance Co. Ltd., .. Appellant
Through its Divisional Officer,
Divisional Manager, Osmanpura,
Dist. Aurangabad.

Versus

1. Limbarao s/o. Vithoba Waghmode .. Respondents
   Age. 45 years, Occ. Agriculture,
   R/o. Borja, Tq. & Dist. Hingoli.

2. Raufkhan Pathan s/o. Yunuskhan Pathan
   Age. Major, Occ. Business,
   R/o. Paltan, Hingoli, Dist. Hingoli.

Mr. Sudhir V. Kulkarni, Advocate for the appellant.
Mr. P.S. Agrawal, Advocate for respondent No.1.

CORAM : A.V. NIRGUDE,J.
DATED : 28.07.2015

ORAL JUDGMENT :-

1. Heard learned Counsel for the parties.

2. Admit.

3. This appeal challenges insurance company's liability to pay 'No Fault Liability' claim under section

140 of the Motor Vehicles Act.

4. The facts of this case are as under :-

5. The claimant-Limbarao was travelling by a jeep belonging to respondent No.2, who is insured owner of the car. Respondent No.2's car met with an accident and the claimant sustained some injuries. The claimant made claim under section 166 of the Motor Vehicles Act to the tune of Rs.1,00,000/- (Rupees One Lakh). He also made application under section 140 of the Motor Vehicles Act for getting compensation on the basis of 'No Fault Liability'.

6. The insurance company took a stand that the policy by which they provided protection to respondent no.2-owner of the car was of limited nature. It was a third party policy in which the occupant of such car are not provided any protection of compensation. The third party claim is not possible by an occupant. They also pointed out that in comprehensive policy, sometimes insurance company guarantees compensation to the occupants of insured car. The owner of the car did not file any reply. It is thus presumed that he admitted that the policy which he had secured was third party policy, which did not provide protection to the occupant of the

insured car. In such situation, the issue that arose between the claimant and insurance company was whether in the light of conditions provided in the policy document, he was entitled to compensation also from the insurance company. No attempt was made to decide this particular issue. The impugned order is vague on this point. Therefore, it deserves to be set aside as against insurance company. It is, however, not disturbed as against the owner of car-respondent No.2. I do not wish to discuss this issue as it would cause prejudice to the parties when they would appear before the Tribunal for deciding the case finally. The finding on the issue referred to above should be recorded at the time of final disposal of the claim petition. Hence, the following order is passed :-

O R D E R

i. The appeal is allowed.

ii. The impugned order is set aside as against insurance company.

iii. The amount deposited in the Court should be returned to the appellant/insurance company.

[A.V. NIRGUDE,J.]