IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 688 OF 2009

M/s New India Assurance Co. Ltd.,
having its Regd. and Head Office at
87 M.G. Road, Mumbai-440001 Branch
office at Beed and Divisional
office No. 1 Ajay Engg. Compound, Adalat
Road Aurangabad-431005 through its Sr.
Divisional Manager & Duly Constituted
Attorney Vishwas Bansi Gaikwad
aged about 50 years ...APPELLANT
(Orig. Resp. No.3)

VERSUS

1) Chandrasen s/o Bhaghwat Tonde,
Age: 45 years, Occ. Agriculture,
R/o Sonimoha, Tq. Dharur, Dist. Beed

2) Archana D/o Chandrasen Tonde,
Age: 14 years, Occ. Education, Minor
U/g. Ship of Claimant No. 1 Chandrasen
s/o Bhagwat Tonde R/o As above

3) Ranjana D/o Chandrasen Tonde,
Age: 10 years, Occ. Education, Minor
U/g. Ship of Claimant No. 1 Chandrasen
s/o Bhagwat Tonde R/o As above ...Orig. Claimants
No. 1 to 3

4) Shivaji s/o Bhaskar Bhange,
Age: Major, Occ. Business,
R/o Wangdari, Tq. Renapur,
Dist. Latur

5) Shaikh Ayub s/o Sk. Hussain,
Age: Major, Occ. Business,
R/o Pimpalgaon, Tq. & Dist. Beed. ...Orig. Resps. No.
1 and 2

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...

Mr V. N. Upadhye, Advocate for appellant;
Mr V. M. Chate, Advocate for respondent No. 1

...

CORAM : N.W. SAMBRE, J.

DATED : 3rd JULY, 2015

PER COURT :

. First Appeal No. 688 of 2009 is arising out of the order passed below Exhibit-5 in Motor Accident Claim Petition No. 02 of 2008 on 17/12/2008 by Motor Accident Claims Tribunal, Majalgaon directing present appellant along with non applicants to the claim petition to pay Rs.50,000/- to the claimants under the principle of No Fault Liability.

2. In First Appeal No.689 of 2009 the order passed below Exhibit-5 in Motor Accident Claim Petition No. 01 of 2008 by Motor

Accident Claims Tribunal, Majalgaon on 17/12/2008 directing the present appellant and respondent vehicle owners to pay Rs.50,000/- to the claimants under the principle of No Fault Liability.

3. The appellant-Insurance Company has questioned the order below Exhibit-5 ordering payment of No Fault Liability on the ground that the driver of the vehicle was not holding proper licence to drive the vehicle in question and as such, according to the appellant insurer, the order of the tribunal is liable to be set aside.

4. Learned Counsel for the respondent-claimants would urge that the order passed by the tribunal is pursuant to the scheme of Section 140 of the Motor Vehicles Act. According to him, the driver of vehicle was holding licence to drive light motor vehicle. He would further urge that the aspect as regards liability and responsibility to pay compensation would be looked into by the tribunal while deciding the claim petition on merit.

5. Upon analyzing the submissions of learned Counsel for the parties, it is required to be noted that in both the appeals, the appellant along with owner and driver of the vehicle were directed to pay the amount under No Fault Liability, which is a liability fastened under Section 140 of the Motor Vehicles Act.

6. Considering the object, with which, the said provision is incorporated in the statute and having regard to the fact that driver of

vehicle was holding licence to drive light motor vehicle, in my opinion, same cannot be termed as substantial breach of policy conditions at this stage.

7. The aspect of breach of certificate of policy, which is admittedly issued by the appellant, can be gone into by the tribunal while deciding the claim petition on merit.

8. In view of above, the appeals fail, stand dismissed.

9. The amount deposited in this Court is directed to be remitted in respective proceedings pending before the tribunal, along with Record and Proceedings.

10. Having regard to the fact that the claim petitions are pending since 2008, it will be appropriate, in my opinion, to direct the Motor Accident Claims Tribunal, Majalgaon to decide the claim petitions as expeditiously as possible and in any case, within a period of three months from today.

11. The Insurance Company is also directed to deposit the entire amount of No Fault Liability, after adjusting the amount, which was deposited before this Court, before the Motor Accident Claims Tribunal, Majalgaon, within a period of four weeks.

12. Both the appeals stand dismissed, with above observations.

13. In view of dismissal of first appeals, pending civil applications stand disposed of.

[**N.W. SAMBRE, J.]**

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