

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

FAST/17855/2014 WITH CIVIL APPLICATION NO. 9022 OF 2015
WITH CA/6872/2014 IN FAST/17855/2014

KONDABAI PUNAMCHAND CHAVAN AND ANOTHER
VERSUS
HDFC ERGO GENERAL INSURANCE CO. LTD., AURANGABAD AND
ANOTHER

...
Advocate for Applicants : Kulkarni Girish B
Advocate for Respondents : S G Chapalgaonkar For R/1
...

CORAM : S.V.GANGAPURWALA,J.

DATED : 1ST OCTOBER, 2015

ORDER :-

This is an appeal filed against award passed under Section 166 of Motor Vehicles Act. Mr.Chapalgaonkar, learned counsel for respondent no.1 submits that the policy is act only policy. Liability of the deceased is not covered so also involvement of the vehicle itself is disputed. These aspects have not been considered.

2] Mr.Kulkarni, learned counsel appears for the applicants/claimants and submits that at the time of passing award u/s 140 the Court has to be prima facie satisfied. The said aspect has been rightly considered. The insurance company cannot be exonerated at this stage.

3] I have considered submissions canvassed by counsel for respective parties. It appears that there is triable case. It would not be appropriate to give any finding at this stage. The proceedings u/s

166 of Motor Vehicles Act are still pending. Considering the aforesaid aspect of the matter, it would be appropriate to pass following order :

ORDER

The amount deposited by the insurance company is transmitted to the Tribunal. The Tribunal shall retain said amount with it till disposal of application u/s 166 of the Motor Vehicles Act. The Tribunal shall decide the application u/s 166 expeditiously preferably within nine months. The Tribunal shall pass orders with regard to the disbursement of the amount in respect of award passed u/s 140 of the Motor Vehicles Act after the judgment is delivered u/s 166 of the Motor Vehicles Act. All considerations of respective parties are kept open. First Appeal is disposed of. No costs. Civil Applications also stand disposed of.

[S.V.GANGAPURWALA,J.]

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