

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

1085 FIRST APPEAL ST. NO. 23256 OF 2015 WITH CIVIL
APPLICATION NO. 13545 OF 2015
IN FAST/23256/2015 WITH CIVIL APPLICATION
NO. 10012 OF 2015 IN FAST/23256/2015

BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD.

VERSUS

SITABAI RAMKISAN BAGLANE AND OTHERS

...

Advocate for Appellant : Mr. S. G. Chapalgaonkar
Advocate for Respondents /claimants: Mr. Rane Girish S

...

CORAM : S. V. GANGAPURWALA, J.

DATE : 16th October, 2015

PER COURT :

1. The present appeal is filed against the order passed under section 140 of Motor Vehicles Act. Mr. Chapalgaonkar, the learned counsel for the appellant submits that involvement of vehicle itself is disputed. In the F.I.R, one registration number of vehicle is mentioned, in charge sheet another registration number is mentioned and in the claim, third registration number is mentioned. According to learned counsel, when involvement of vehicle itself is disputed and this aspect has not at all been considered, the amount deposited by the insurance company needs to be protected.

2. Mr. Rane, the learned counsel for the claimants

submits that earlier, temporary registration number was given and thereafter when the vehicle is registered, the registration number is given, the same is stated. There is no dispute about involvement of the vehicle.

3. I have considered the submissions.

4. The application under section 166 of the Motor Vehicles Act is still pending consideration. The impugned order is passed under section 140 of the Motor Vehicles Act. At this stage, prima facie case is to be considered. Be that as it may, considering the nature of dispute, it will be in nobodies interest to keep the amount idle. At the same time, interest of the insurance company needs to be safeguarded.

5. In the light of above pass following order:

- i. The claimants are allowed to withdraw the amount awarded by the Tribunal under section 140 of the Motor Vehicles Act on submitting solvent surety/security of the like amount. The said withdrawal of the amount would be without prejudice to the rights of either of the parties and would be subject to the decision of the Tribunal in the application under Section 166 of

the Motor Vehicles Act.

- ii. The amount be transmitted to the tribunal and the security shall be given to the satisfaction of the tribunal.
- iii. The tribunal may pass further order with regard to the amount awarded under section 140 of the Motor Vehicles Act at the time of final orders under section 166 of the Act.
- iv. The tribunal shall endeavour to dispose of the application under section 166 of the Motor Vehicles Act expeditiously, preferably within nine months.
- v. First appeal is accordingly disposed of.
- vi. It is made clear that I have not considered the merits of the contentions of either of the parties. The same are kept open.
- vii. Civil applications also stand disposed of.

(S. V. GANGAPURWALA, J.)