

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

FIRST APPEAL NO. 2697 OF 2015

**SANJEEVAN MADHAVRAO LAHANE AND OTHERS
VERSUS
BALAJI JANAK JOGDAND AND ANOTHER**

...
Advocate for Appellants : Shirsat Suhas R.

...

CORAM : S.V.GANGAPURWALA,J.

DATED : 20TH OCTOBER, 2015

PER COURT :-

The application u/s 140 of Motor Vehicles Act is rejected.

2] Mr.Shirsat, learned counsel submits that the only ground for rejection of the application u/s 140 of the Motor Vehicles Act is that the dead bodies of the deceased are not yet found. Learned counsel submits that even charge sheet is filed against the said driver of the vehicle. The learned counsel submits that at this stage of determination of application u/s 140 of the Motor Vehicles Act, the only prima facie conclusion is required to be drawn. It is submitted that the said provision is a succor to the claimants. The Court has failed to consider the import of Section 140 of the Motor Vehicles Act in correct perspective.

3] I have considered submissions. The claim petition u/s 166 of the Motor Vehicles Act is still pending. The claim petition is filed in

the year 2014 i.e. more than a year back. The accident has taken place in July 2013. No doubt at the time of determination of an application u/s 140 of the Motor Vehicles Act, the prima facie case is required to be considered and long drawn enquiry is not contemplated.

4] It would not be worthwhile to decide the said application and in view of the fact that application u/s 166 is pending, interest of justice would be sub-served by issuing directions to decide the application u/s 166 expeditiously.

5] In the result, I pass following order :

First Appeal is disposed of. The tribunal shall decide application u/s 166 of Motor Vehicles Act filed by present applicants/appellant expeditiously preferably within nine months. The tribunal shall decide the said proceeding on its own merits on the basis of evidence adduced and shall not be guided by reasons given while rejecting application u/s 140 of the Motor Vehicles Act.

It is also made clear that I have not considered merits of the reasons given by tribunal while passing order below under Section 140 of the Motor Vehicles Act. No costs.

[S.V.GANGAPURWALA,J.]

umg/