

FIRST APPEAL NO. 2361 OF 2015

Maroti Sheshrao Shelke & Another ... Appellants

VERSUS

Sk. Ferzahana Sk. Lal & Ors. ... Respondents

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Mr. N. J. Patil, Advocate for appellants

Mr P. C. Mayure, Advocate for the respondents No. 1 to 6

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CORAM : S. V. GANGAPURWALA, J.

DATE : 16TH SEPTEMBER, 2015.

PER COURT:

. This is an appeal filed against the award passed u/s 140 of the Motor Vehicles Act.

2. The Id. Counsel for the appellants submits that, the appellants have disputed the involvement of their vehicle in the accident. The F.I.R. also does not state the number of the vehicle owned by the appellants to have been involved in an accident. The Tribunal while passing the impugned order, has not discussed the defence raised by the present appellants and as a matter of course, has passed the order directing the appellants to deposit the amount under no fault liability. The learned Counsel further submits that, even the appellants are acquitted in the criminal case. When the vehicle of the appellants is not involved, the appellants cannot be made liable.

3. The Id. Counsel for the claimants supports the order.
4. The order is passed u/s 140 of the Motor Vehicles Act. The application filed u/s 166 of the Motor Vehicles Act, is still pending. Parties have yet to adduce the evidence. It is only after the parties adduce their evidence, the clear position would emerge about the contentions raised by either of the parties with regard to the involvement of the vehicle or otherwise.
5. Considering the above, I pass the following order.

ORDER

- (i) The claimants i.e. respondents No. 1 to 5 herein are allowed to withdraw Rs. 5000/- each deposited by the present appellants in this Court.
- (ii) The said withdrawal of the amount would be subject to the decision of the Tribunal in an application u/s 166 of the Motor Vehicles Act.
- (iii) The appellants shall deposit remaining amount of Rs. 25,000/- with the Tribunal within a period of eight weeks from today.
- (iv) The Tribunal shall retain the said amount of Rs. 25,000/- and keep it as a Fixed Deposit in any of the Nationalized Banks.

- (v) The orders with regard to the disbursement of the said amount would be passed in tune with the judgment that would be delivered by the Tribunal in an application u/s 166 of the Motor Vehicles Act.
- (vi) It is made clear that, I have not considered the merits of the contentions of either of the parties. Same are kept open for consideration by the Tribunal while deciding the application u/s 166 of the Motor Vehicles Act.
- (vii) All the contentions of the parties are kept open.
- (viii) The Tribunal shall endeavour to dispose of the application, as expeditiously as possible, preferably within a period of nine months from today.

First Appeal is accordingly disposed of however, with no order as to costs.

[S. V. GANGAPURWALA, J.]

sgp