

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 69 OF 2015

New India Assurance Company Ltd.
Manager, Abbott Building, First Floor,
Near Ashoka Hotel, King's Road,
Ahmednagar, through its Divisional
Manager/Authorized Signatory,
Adalat Road, Aurangabad

APPELLANT

VERSUS

1. Sameena Sameer Kamliwale,
Age ; 28 years, Occu. Household
2. Saniya Sameer Kamliwale,
Age ; 10 years, Occu. Education
3. Samqib Sameer Kamliwale,
Age : 8 years, Occu. Education
4. Tanjila Sameer Kamliwale,
Age : 7 years, Occu. Education

Nos. 2 to 4 are minors, under
guardianship of Respondent No.1
Sameena Sameer Kamliwale

All r/o Daulat Kothi, Nava Bazaar,
J.M. Road, Arkut, Darga Galli,
Bijapur Railway Station,
Bijapur (Karnataka State)

5. Fatima Ramjan Kamliwale,
Age : 61 years, occu. Nil
Ward no. 7, Sandhi Colony,
Shrirampur, Tq. Shrirampur,
District Ahmednagar
6. Shaikh Shoeb Ishtaque,
Age : Major, Occu. Business,

R/o Nath Nagar, Taluka Pathardi,
District Ahmednagar

7. Shaikh Najim Khanjalal,
Age : Major, Occu. Driver,
R/o Nath Nagar, Taluka Pathardi,
District Ahmednagar

RESPONDENTS

Mr. S.G. Chapalgaonkar, Advocate for the appellant

CORAM : M.T. JOSHI, J.

DATE : 13/01/2015

ORAL ORDER :

1. Heard Mr. Chapalgaonkar, learned counsel for the appellant.
2. Considered the grounds made out in the appeal memo. The order passed by the Motor Accident Claims Tribunal in an application under section 140 of the Motor Vehicles Act, thereby granting the amount towards no fault liability, is challenged in the present appeal.
3. The rickshaw involved in the accident, according to the present appellant – insurer, was being used for hire and reward against the terms and conditions of the insurance policy. All the pleas raised by the appellant would require evidence which naturally

the Tribunal would scan at the time of deciding the proceeding under section 166 of the Motor Vehicles Act. In that view of the matter, there is no need to issue notice to the respondents. In the circumstances, the following order:-

4. The first appeal is disposed of. The learned Member of the Motor Accident Claims Tribunal shall consider the grounds raised by the present appellant in the proceeding under section 166 of the Motor Vehicles Act and pass necessary orders at that time. The amount deposited in this Court be transmitted to the Motor Accident Claims Tribunal for onward disbursement of the same as per the impugned award.

5. In view of disposal of the first appeal, Civil Application No. 267/2015 also stands disposed of.

[M.T. JOSHI]
JUDGE