

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 998 OF 2008

ICICI Lombard General Insurance Co. Ltd. ... Appellant
Vs.
Smt. Kalpana Kashinath More & Ors. ... Respondents

Mr. Nikhil Mehta i/b. KMC Legal Venture, Advocate for the appellant.
Mr. T.J. Mendon, Advocate for respondent nos. 1 and 2.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **5th December, 2015**

P.C.:

The Appeal is already admitted on 22nd October, 2008. By consent, the Appeal is heard finally and disposed of.

2. This Appeal is filed challenging the order dated 12th October, 2007 passed by Member, Motor Accident Claims Tribunal, Raigad-Alibag in M.A.C.P. No. 433 of 2006 allowing the Application for interim compensation of giving Rs.50,000/- under No Fault Liability under section 140 of the Motor Vehicles Act with interest @ 6% p.a.

3. The learned counsel for the appellant/insurance company submitted that the accident has taken place on 13th June, 2006 and prior to that, by the letter dated 31st May, 2006, the appellant/insurance company has informed the respondent/owner of the vehicle that the cheque of premium

issued by him was dishonoured for want of sufficient funds and therefore, the policy of pick-up van /jeep no. MH.16/Q 3097 was cancelled. The learned counsel for the appellant/insurance company submitted that under this circumstances, the insurance company is not liable to pay any compensation including the compensation under section 140 of the Motor Vehicles Act.

4. The learned counsel for respondent nos.1 and 2/original claimants opposed this Appeal and has submitted that respondent no.1 lost her husband and respondent no. 2 lost his father, therefore, the family has suffered great financial loss and they do not have good financial background. He submitted that the accident has taken place in the year 2006 and since then the claimants did not receive any amount. Thereafter the claimants received Rs.50,000/- for NFL, as this Court refused to grant stay to the said order. He submitted that there is another application of the injury claim, which is now disposed of by the Tribunal.

5. In view of this circumstances, since the main application filed under section 166 of the M.V. Act is pending before the Tribunal since 2006 and connecting matter is now disposed of, I am of the view that following order would meet the ends of justice:

- (i) All the contentions raised by the appellant in this Appeal are kept open are to be raised and decided along with the main application.
- (ii) If the insurance company succeeds in the main application, then the insurance company may recover the amount of Rs.50,000/- from the owner of the vehicle.
- (iii) The statutory amount which is deposited by the insurance company is to be transferred to the Tribunal.
- (iv) Registry is directed to send the record and proceedings in this matter to MACT, Raigad till 22nd December, 2015, as the main application under section 166 of M.V. Act is stalled.

6. First Appeal is disposed of.

(MRIDULA BHATKAR, J.)