IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

FIRST APPEAL NO. 602 OF 2015
WITH
CIVIL APPLICATION NO. 2913 OF 2015

United India Insurance Company Ltd.,
Through its Divisional Office,
Divisional Manager, Osmanpura,
Dist. Aurangabad. **....Appellant.**
(Ori. Resp. No.2)

Versus

1. Geetabai w/o. Madhukar Pole,
Age 45 years, Occu. Labour,
R/o. Borja, Tq. & Dist. Hingoli. Ori. Claimant

2. Raufkhan Pathan s/o. Yunuskhan Pathan,
Age Major, Occu. Business,
R/o. Paltan, Hingoli, Dist. Hingoli Ori. Respondent
....Respondents.

Mr. S.V. Kulkarni, Advocate for appellant.

Mr. P.S. Agrawal, Advocate for respondent No. 2.

CORAM : T.V. NALAWADE, J.
DATED : 19th January, 2016.

JUDGMENT :

1) Appeal is **admitted.** Notice after admission is waived by learned counsel Shri. P.S. Agrawal for respondent No. 2. Notice after admission is not necessary as in the appeal first notice was issued to respondent No.1, but nobody had turned up for respondent No. 1. Heard the learned counsel for appellant, Insurance Company and learned counsel for respondent No. 2.

2) Limited point is involved. The order made under

section 140 of Motor Vehicle Act by the Tribunal is challenged by the Insurance Company in the appeal on the ground that it was third party policy and risk of the occupant of the vehicle was not covered. The claimant - Geetabai was travelling in the jeep as a passenger and so, it is the case of Insurance Company that risk to the passenger was not covered and even at that stage, no liability can be fasten on the Insurance Company.

3) Arising out of the same accident one more matter was filed and similar order was made by the Tribunal. First Appeal No. 1342/2015 was filed by the Insurance Company against the said order and this appeal is allowed by the other Hon'ble Judge of this Court on 28.7.2015. Copy of the said order is taken on record. In that matter, it was held that there is third party policy and so, risk to the occupant of such car was not covered. The appeal was allowed and order made by the Tribunal is set aside.

4) In view of this circumstance, present appeal is allowed. The order made on Exh. 5 in MACP No. 47/2012 is hereby set aside. The amount, if any, deposited by the Insurance Company is to be returned to the Insurance Company. Civil Application is disposed of.

[T.V. NALAWADE, J.]

ssc/