

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

902 FIRST APPEAL NO. 2024 OF 2012
WITH CA/4025/2012 IN FA/2024/2012

BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD THR BRANCH MANAGER
VERSUS
LAXMI ANNABHAU ETHAPE AND ORS

...
Advocate for Appellant : Mr. S.G. Chapalgaonkar
Adv. for Respondents 1 to 3 : Mr. N.B. Narwade

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CORAM : K.K. SONAWANE, J.

DATE : 13th JUNE, 2018.

PER COURT:-

Heard learned counsel Shri Chapalgaonkar for the appellant/Insurance company. He submitted that the original proceeding filed under Section 166 of the Motor Vehicles Act bearing MACP No. 300 of 2010 has already been adjudicated on merit by the learned MACT Ahmednagar. Being dissatisfied with the impugned judgment and award passed by the Tribunal in MACT No. 300 of 2010, the appellant Insurance has already preferred an appeal bearing FA Stamp No. 5689 of 2018 and the same is pending before this court for further process.

According to Mr. Chapalgaonkar, all issues and objections raised in the present appeal are also propounded in the appeal filed by the Insurance company against the award passed by the Tribunal under Section 166 of MV Act. Therefore, he prayed that the present appeal be disposed of with liberty to the appellant to raise all issues for consideration in First Appeal Stamp No. 5689 of 2018.

Admittedly, the present appeal is filed against the impugned award passed by the Tribunal under Section 140 of the MV Act. Thereafter, the tribunal proceeded further and adjudicated the petition filed under Section 166 of the MV Act by the claimant. The said judgment and award passed by the Tribunal under Section 166 of the MV Act is agitated by the Insurance company by filing FA stamp No. 5689 of 2018. In such circumstances, I find force in the contentions put forth on behalf of learned counsel for the appellant. There would not be any propriety to deal with the issues raised in the present appeal as the same are also agitated by the appellant in FA stamp No. 5689 of 2018 challenging the award under Section 166 of the MV Act. Hence, the appeal stands disposed of. The appellant is at liberty raise all objections put forth in this appeal before the concerned Forum hearing the i.e. FA Stamp No. 5689 of 2018. The decretal amount of No fault liability which has been deposited by the appellant in this court, be transmitted in FA stamp No. 5689 of 2018. The Registry to do the needful for the same. There shall be no orders as to costs. Civil application does not survive and stands disposed of.

[K.K.SONAWANE, J]

grt/-