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

FIRST APPEAL NO. 1404 OF 2009

New India Assurance Company Ltd. Through its Divisional Manager, Adalat Road, Aurangabad **APPELLANT**

V E R S U S

Shamimbee W/o Rafiuddin Kazi & Ors. **RESPONDENTS**

Mr. S.G. Chapalgaonkar, Advocate for the Appellant
Ms. P.B. Khanderao, Advocate, holding for
Mr. N.R. Shaikh, Advocate for Respondent Nos. 1 & 2

CORAM : A.V. NIRGUDE, J.

DATE : 26th August, 2016

PER COURT :

1. With the help of learned counsel for the parties, I went through the Appeal-Memo and the impugned order. I also came to know the further developments that took place in the case.

2. This Appeal challenges interim order passed under Section 140 of the Motor Vehicles Act, 1988, awarding an amount of Rs.50,000/- as no-fault-liability. The Insurance Company even challenged this interim order on the ground that the owner of the vehicle allowed passengers to be carried in the Goods vehicle etc. After the Appeal was filed, the

impugned order was stayed. This Appeal remained pending since 2009 and in the meantime, Motor Accident Claim Petition No. 321 of 2007, which was pending before the M.A.C.T. Jalgaon was disposed of on 27th February, 2014.

3. Learned counsel for the Appellant rightly contended that the Insurance Company did not cover any risk of passengers traveling in Goods career. Thus, there was complete lack of contract between the Insurance Company and owner of the vehicle, and so, there was no question of paying the compensation. The Appeal should therefore succeed.

4. The Appeal is allowed. The impugned order is dismissed as against the Appellant – Insurance Company. The amount deposited in the Court shall be refunded to the Insurance Company with interest.

(A.V. NIRGUDE, J.)

srm/26/8/16