

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

FIRST APPEAL (STAMP) NO. 25835 OF 2015

THE NEW INDIA ASSURANCE CO. LTD.
THROUGH ITS MANAGER (LEGAL HUB)
VERSUS
SMT. MANGALABAI BALIRAM GITE AND OTHERS

...

Advocate for Appellant : Mr. M. M. Ambhore.

Advocate for Respondent Nos.1 to 6 : Mr. P. C. Mayure.

Advocate for Respondent No.7 : Mr. S. S. Thombre.

...

CORAM : **P. R. BORA, J.**

DATE : 11th August, 2016.

P.C.:

. Issue notice to the Respondents.

2 Shri Mayure, learned counsel appearing for Respondent Nos.1 to 6 i.e. original Claimants and Shri Thombre, learned counsel appearing for Respondent No.7 waive service.

3 With the consent of the parties, the appeal is taken up for final hearing at admission stage.

4 Admittedly, the appeal is filed challenging the order passed by the Tribunal under Section 140 of the Motor Vehicles Act whereby the Appellant Insurance Company is directed to pay the amount of NFL compensation to the Claimants jointly and severally with the owner. The Appellant Insurance Company has disputed the

liability of paying any compensation to the Claimants stating that the vehicle involved in the accident was not insured on the date of accident with the Appellant Insurance Company. The learned counsel submitted that the cheque of the premium issued by the owner of the offending vehicle since was dishonoured, the policy was cancelled by the Insurance Company and on the date of accident, no policy was in force. It appears to me that instead of deciding the aforesaid issue at the interim stage, it would be appropriate if the matter is remitted back to the Tribunal for deciding it expeditiously by considering the objections raised by the Appellant Insurance Company in the present appeal and by giving opportunity to all the parties to the proceedings and more particularly to the Appellant Insurance Company and the owner of the offending vehicle to establish their respective contentions.

5 The learned counsel for the Claimants, on instructions, submitted that if the claim petition is directed to be expeditiously disposed of by the Tribunal, the Claimants shall not withdraw the amount deposited by the Insurance Company under no fault liability till the final decision by the Tribunal in the claim petition. In the circumstances, I find it appropriate to dispose of the present appeal with the following order:

ORDER

- I. The Motor Accident Claims Tribunal, Parbhani, shall

dispose of M.A.C.P. No.54 of 2013, expeditiously and preferably within nine months after receipt of the writ from this Court by giving appropriate opportunity to the parties to the proceedings before it.

- II. The amount of NFL compensation deposited by the Appellant Insurance Company in this Court be transmitted to the Tribunal.
- III. The amount so deposited by the Appellant Insurance Company shall not be permitted to be withdrawn till the decision of the motor accident claim petition.
- IV. All the issues raised in the present appeal are kept open to be agitated before the Tribunal.
- V. The appeal stands disposed of.
- VI. Pending civil application, if any, stands disposed of.

[P. R. BORA, J.]