

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 574 OF 2016

The New India Assurance Company Ltd.	... Appellant
vs.	
Smt. Chandabai Ashok Verma & ors.	... Respondents

Mr. Devendranath Joshi, Advocate for the appellant.

Coram : Smt. R. P. SondurBaldota, J.
Date : 3rd May, 2016

P.C. :

1. This appeal arises out of the order dated 21st July, 2011, by which the Motor Accident Claims Tribunal, Pune allowed the application of the claimants under Section 140 of Motor Vehicles Act, 1988 and directed the owner and the appellant to jointly pay entire compensation of Rs.25,000/- to respondent no.1. The application was contested by the appellant contending that the insurance policy held by respondent no.2 was "Contractors Plant and Machinery Insurance" and it was argued that by the very nature of the policy it did not cover any third party. Therefore, the appellant is not liable to pay the interim compensation awarded. The Tribunal has held that though the policy is Contractors Plant

and Machinery Insurance it covered the offending vehicle, which is a “sweeper” in the policy and premium paid for the policy was for accident or damage occurring during the period of insurance. The Tribunal has expressed it's opinion that the occurrence of accident or damage indicates that the policy is not restricted only for contractors plant and machinery but the policy covers accident also. In such peculiar circumstances the appellant was held liable to pay compensation. It is further been observed that the appellant can always make up it's defence at the time of final hearing of the main proceedings i.e. the application under Section 166 of Motor Vehicles Act.

2. In my opinion, the impugned order which is on the nature of an interim order is not required to be interfered with at this stage. The appellant can always agitate the question of coverage of the insurance policy with respondent no.2 as and when the main proceedings are contested. Thus, by leaving that question open for consideration of the final hearing, the first appeal is dismissed. The amount of Rs.12,500/- deposited by the appellant at the time of filing of the appeal, be transferred to the Tribunal.

[Smt. R. P. SondurBaldota, J.]