

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1406 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Nikhil Mehta i/b M/s.KMC Legal Venture for the appellant

None for the respondent

CORAM : K. K. TATED, J.

DATE : FEBRUARY 29, 2016

P.C.:

1 Heard the learned counsel for the appellant.

2 This appeal is preferred by Insurance Company challenging the order dated 30.9.2010 passed by MACT, Mumbai below Exhibit-12 in Claim Application No.764 of 2009 directing Insurance Company to pay sum of Rs.25,000/- under section 140 of the Motor Vehicle Act towards No Fault Liability.

3 The learned counsel for the appellant submits that the Tribunal failed to appreciate that the Respondent-claimant placed on record fake Insurance Policy for obtaining order under section 140 of the Motor Vehicle Act. Hence, Insurance Company is not liable to pay compensation as directed by the Tribunal by order dated 30.9.2010.

4 It is to be noted that in the present proceedings, Insurance Company has not filed any reply to the application filed by the Respondent-claimant under section 140 of the Motor Vehicles Act. Apart from that, the Trial Court perused list of documents at Exhibit-8, certified copies of FIR and other documents and held that the claimant sustained 39% partial disability. The Tribunal also held that claimant placed on record copy of Insurance Policy at Serial No.5. As the Insurance Company failed to file reply in the Trial Court, appellant cannot raise their objection first time in the First Appeal. Apart from that, the main application filed by the Respondent-claimant being Claim Application No.764 of 2009 is pending for hearing and final disposal on its own merits. The Insurance Company can raise this objection in the main application.

5 Considering these facts, I do not find any substance in the First Appeal. Same is rejected.

6 The amount deposited by the appellant at the time of filing First Appeal in the Registry of this court be transferred to the concerned MACT, along with interest if any.

JUDGE