

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1667 OF 2017
WITH
CIVIL APPLICATION NO. 16310 OF 2015 AND
CIVIL APPLICATION NO. 2345 OF 2017

THE NEW INDIA ASSURANCE COMPANY LIMITED
VERSUS
SHAIKH MOHSIN SHAIKH NAWAJ AND ANOTHER

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WITH
FIRST APPEAL NO. 1668 OF 2017
WITH
CIVIL APPLICATION NO. 16288 OF 2015 AND
CIVIL APPLICATION NO. 2288 OF 2017

THE NEW INDIA ASSURANCE COMPANY LIMITED
VERSUS
ABDUL KARIM ABDUL RAHIM SHAIKH AND ANOTHER

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Advocate for the appellants: Mr. A.B.Kadethankar
Advocate for respondents No.1: Mr. M.S. Karad h/f Mr. S.S. Thombre

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CORAM : V. K. JADHAV, J.
DATED : 12th JULY, 2017

PER COURT:-

1. Being aggrieved by orders passed below Exh.5 in M.A.C.P. No. 316 of 2012 and below Exh.5 in M.A.C.P. 317 of 2012, both dated 2.4.2015, by the Chairman, M.A.C.T. Parbhani, the respondent insurer has preferred these two separate appeals. Both the claim petitions arise out of the same accident. The respondent insurer has preferred both these separate appeals against the order of compensation under 'no fault liability'.

2. By consent, the amounts under 'no fault liability' deposited before this Court in these two appeals, transferred to the Chairman, M.A.C.T. Parbhani in pending M.A.C.P. Nos. 316 of 2012 and 317 of 2012, respectively, with certain directions. It is hereby made clear that this Court has not entered into the disputed question of facts, such as delay in lodging the complaint, false involvement of vehicles in the accident etc. and thus, keeping all points open, the impugned orders passed by the Chairman, M.A.C.T. Parbhani are hereby quashed and set aside. Hence, I proceed to pass the following order:-

O R D E R

- I. The first appeal No. 1667 of 2017 (The New India Assurance Company Ltd. vs. Shaikh Mohsin Shaikh Nawaj and Anr) and first appeal No. 1668 of 2017 (The New India Assurance Company Ltd. vs. Abdul Karim Abdul Rahim Shaikh and Anr) are hereby partly allowed. No costs.
- II. The orders passed below Exh.5 in M.A.C.P. No. 316 of 2012 and below Exh.5 in M.A.C.P. 317 of 2012, both dated 2.4.2015 passed by the Chairman, M.A.C.T. Parbhani, are hereby

quashed and set aside with the following directions:-

- i) The amounts under 'no fault liability' deposited before this Court in these two appeals, shall be transferred to the M.A.C.T. Parbhani in respective claim petitions.
 - ii) The learned Chairman, M.A.C.T. Parbhani shall decide the main claim petitions filed under fault liability, within a period of six months from today and the Tribunal shall pass appropriate orders in respect of the amount so transferred in both the claim petitions.
- III. The parties shall appear before the Tribunal on 31.07.2017 at 11.00 a.m.
- IV. Both the appeals are accordingly disposed of.
- V. Pending civil applications are also disposed of.

(V. K. JADHAV, J.)

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