IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.

7 **FIRST APPEAL NO.1599 OF 2018**
WITH CA/5955/2018 IN FA/1599/2018

HDFC ERGO GENERAL INSURANCE CO. LTD.
THR ITS AUTHORIZED SIGNATORY,
AURANGABAD ..**Appellant**
VERSUS
JAYASHRI SHAHURAJ TATE AND ORS ..**Respondents**

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Shri S.G. Chapalgaonkar, Advocate for the appellant;
Shri V.M. Chate, Advocate for Respondent no.5;
Respondents No.1 to 4 - Served.

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CORAM : P.R. BORA, J.
Dated: September 05, 2018

PER COURT :

1. Heard Shri Chapalgaonkar, the learned Counsel appearing for the appellant. Respondents No.1 to 4 i.e. original claimants though are duly served, none of them has entered appearance in the matter. Learned Counsel Shri Chate is appearing for respondent no.5 i.e. owner of the offending vehicle.

2. The order passed under Section 140 of the Motor Vehicles Act (hereinafter referred to as the 'Act') is under challenge in the present appeal. Shri Chapalgaonkar, the learned Counsel appearing for the appellant – Insurance Company submitted that, the policy of insurance involved in the present matter is found to be fake in the investigation carried

out by the appellant – Insurance Company. The record shows that, while issuing notice in the present matter, this Court had stayed the execution of the impugned order and the same is still in force. The learned Counsel for the Insurance Company further submitted that, the owner of the offending vehicle i.e. respondent no.5 was called upon to place on record the policy of insurance and accordingly the same was filed on record. The learned Counsel further submitted that, the said policy was then forwarded for its examination and in the said examination, the same is found to be fake. In the circumstances, the learned Counsel prayed for setting aside the impugned order.

3. Shri Chate the learned Counsel for respondent no.5 has opposed the submissions made on behalf of the appellant – Insurance Company. According to learned Counsel, the policy of insurance is genuine one.

4. It is informed that, the claim petition is for hearing before the Tribunal. In the circumstances, it appears to me that, it would be more expedient if the objections as are raised by the Insurance Company about the policy are decided by the Tribunal by giving due opportunity to both the parties to substantiate their respective contentions by adducing necessary evidence, instead of deciding the said objections in the present appeal.

5. In view of the above, I deem it appropriate to pass the following order.

ORDER

(i) The interim order passed by this Court on 03.05.2018 is made absolute.

(ii) The Motor Accident Claims Tribunal, Ahmednagar shall hear and decide Motor Accident Claim Petition No.377 of 2017 as expeditiously as possible and preferably within the period of 6 months from the date of this order by giving due opportunities of hearing to the parties to the petition.

(iii) The payment of NFL compensation shall be subject to the final outcome of the claim petition.

. The First Appeal stands allowed in the aforesaid terms.

(iv) Pending Civil Application, if any, stands disposed of.

(P. R. BORA, J.)

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