

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.40 OF 2018

The New India Assurance Co.Ltd. Appellant

Versus

Sunanda Kisan Mali (Baviskar) & others Respondents

Mr.Dhananjay P. Deshpande, advocate for the appellant.

CORAM : M.S.SONAK, J.

DATE : 08th January, 2018.

P.C. :

1 Heard Mr.Deshpande, advocate for the appellant.

2 This appeal is directed against the order dated 11.09.2017 made by the Motor Accident Claims Tribunal, Jalgaon, directing the appellant as well as owner of the vehicle in question to pay an amount of Rs.50,000/- towards no fault liability in terms of Section 140 of the Motor Vehicles Act, 1988.

3 Learned Counsel for the appellant-Insurance Company submits that as per the documents produced on record by the claimants themselves, it is clear that the license of the driver of the motor vehicle had already expired. In such circumstances, Mr.Deshpande, submits that the Insurance Company ought not to have been made liable even to bear the amount under no fault liability.

4 Since, the amount awarded is only towards no fault liability and the issue of final liability is yet to be determined in the main petition under Section 166 of the Motor Vehicles Act, it will

not be appropriate, at this stage, to entertain the appeal. However, it needs to be clarified that in case, the appellant-Insurance Company makes good its defence in the main petition under Section 166 of the Motor Vehicles Act, then, the MACT will have to make appropriate orders for recovery even of the amount now awarded by the impugned order, either from the claimants or from the owners/driver, as the case may be. With this clarification, this appeal is disposed of.

5 It is made clear that this Court has not adverted to merits and, therefore, all contentions of all the parties are kept open to be adjudicated in the main petition under Section 166 of the Motor Vehicles Act.

6 The Registry is directed to transmit the amount deposited by the appellant in this Court to the MACT, Jalgaon, so that the same can be paid to the claimants. Further, the appellant is granted four weeks' time from today to deposit the balance amount in terms of the impugned order dated 11.09.2017. Upon deposit, the respondents-claimants may be permitted to withdraw the amount.

7 In view of disposal of appeal itself, Civil Application No.65 of 2018 does not survive and stand disposed of.

M.S.SONAK
JUDGE