IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1316 OF 2016
WITH
CIVIL APPLICATION NO. 3673 OF 2016

Iffco Tokio General Insurance Co. Ltd ....Appellant
V/s.
Smt. Vandana Pankaj Mishra & Ors. ....Respondents

Ms. Jyoti Bajpayee for the appellant / insurance company.
Ms. Kavita Anchan i/b. Vishal Dhende for R.Nos.1 to 4.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 11th APRIL, 2018.

P.C.:

. Heard the learned counsels for the respective parties. With consent of the parties, appeal is disposed of finally at the stage of admission.

2. The appellant herein has challenged the order dated 21st December, 2015 in Application No. 1749 of 2014 whereby the learned Member, MACT, Mumbai has awarded compensation of Rs.50,000/- under section 140 of Motor Vehicles Act, 1988 (hereinafter referred as 'the MV Act').

3. The respondent nos.1 to 4 has filed a Claim Petition under

section 166 of Motor Vehicles Act alongwith Application under section 140 of MV Act. The case of the respondents/claimants is that on 20th August, 2014, at about 05:00 p.m. at the Eastern Express Highway, a truck bearing no. MH-11-AL-6474 dashed against a pedestrian Pankaj Mishra. Said Pankaj Mishra died as a result of the injuries sustained in the said motor vehicular accident. The respondent nos.1 to 4/claimants being the widow, child and parents of the deceased-Pankaj Mishra have claimed that the accident was caused due to rash and negligent driving by the driver of the said truck. They have filed the petition under section 166 of the MV Act claiming total compensation of Rs.50 lakhs and have also filed an application under section 140 of MV Act.

4. The appellant / insurance company had alleged that the vehicle was not insured as on the date of the accident and hence, disputed its liability to pay the compensation. The Claims Tribunal, after considering the material on record, held that there are two policies one of which covers the period from 20/08/2014 to 21/08/2015 and the other policy is for the period from 19/08/2014 to 20/08/2015. The Tribunal held that at this stage it is only required to consider *prima facie* case and if at all there is any manipulation in the date of the policy, the insurance company can take action against the wrong doer.

5. With these observations, the Tribunal allowed the application and directed the owner and the insurance company to pay the compensation of Rs.50,000/- towards no fault liability within a period of one month. Being aggrieved by this order, the appellant / insurance company has preferred this appeal.

6. Heard Ms. Jyoti Bajpayee, learned counsel for the appellant and Mr. Vishal Dhende, learned counsel for the respondents. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

7. At the outset, it may be mentioned that the object of section 140 of MV Act which is based on the principal of "no fault liability", is to provide immediate financial help to the victims of the motor vehicular accident. In case of death, the victims are entitled for compensation of Rs.50,000/- whereas, in case of permanent disablement, the compensation payable under this section is Rs.25,000/-. It is to be noted that the compensation payable under section 140 of MV Act is in addition to the compensation payable under any other law in force or under the principle of 'fault liability'. Furthermore, the amount received under sub-section 2 of section 140 of MV Act is to be adjusted

while paying compensation on the principle of 'fault liability'.

8. In the instant case, it is not in dispute that the death of Pankaj Mishra was due to the injuries sustained in Motor Vehicle accident. The claimants had produced two policies, one of the policies covers the date on which the accident had occurred. The appellant / insurance company had challenged the genuineness of the policy certificate. It may be mentioned that Section 140 of MV Act is a welfare legislation and such proceedings are to be decided in summary manner. Conducting detailed investigation or inquiry at this stage would defeat the object of this provision.

9. Hence, this is not a stage at which the appellant / insurance company can be absolved of its liability. The defence raised by the insurance company has to be considered and decided in the main application under section 166 of the MV Act. Suffice it to say that if the insurance company ultimately succeeds in proving its defence and is exonerated of its liability of indemnifying the third party, the Tribunal can pass appropriate order at the stage of final award directing the owner to refund the amount alongwith interest thereon to the insurance company.

10. Under the circumstances and in view of the reasons stated above, the appeal is dismissed. Civil Application does not survive in view of dismissal of the appeal.

(SMT. ANUJA PRABHUDESSAI, J.)