

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

6 FIRST APPEAL NO.2420 OF 2019

SAYYED KHADIR ALI S/O SAYYED SHAUKAT
VERSUS
GHULAMNABI ABDUL KHUDDUS AND ORS

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Advocate for Appellant : Mrs. Ansari A.N.
Advocate for Respondent No.2 : Mr. Kulkarni Sudhir V.

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CORAM : MANGESH S. PATIL, J.
DATE : 15.11.2019

ORDER :-

Heard the learned advocate for the appellant and the learned advocate for the respondent no.2. In spite of service of notice for final disposal the learned advocate for the respondent no.1 is absent. With consent the appeal is heard finally.

2. The appellant who was travelling as a passenger in an auto rickshaw sustained injuries when it collided with a truck. He filed a proceeding under Section 166 of the Motor Vehicles Act claiming compensation by arraying the present respondents who are the owner / insured of the rickshaw and insurer of the rickshaw as parties. He filed application (Exhibit-5) seeking compensation under Section 140 of the Motor

Vehicles Act. By the impugned order the learned Member of the Tribunal rejected the application on the ground that the owner and the insurer of the truck were not arrayed as respondents in the petition.

3. Needless to state that so far as the appellant is concerned who was the passenger travelling in the auto rickshaw and since it is a matter of collision between two vehicles, it is not expected of the appellant to have impleaded the owner and the insurer of the truck as well, particularly at least for seeking interim compensation by invoking the 'no fault liability' principle contained in Section 140 of the Motor Vehicles Act. Dismissing the application for this sole reason clearly undermines the efficacy of the Tribunal. The order is not at all sustainable in law and needs to be quashed and set aside.

4. The appeal is allowed. The impugned order is quashed and set aside. The application of the petitioner (Exhibit-5) is allowed. The respondents shall deposit the interim compensation of Rs.25,000/- in the Tribunal within four weeks.

[MANGESH S. PATIL, J.]