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

FIRST APPEAL NO.4212 OF 2016

1. Shaikh Lal S/o Shaikh Osman
Age: 60, Occu: Labour,
R/o Pathara,
Tal. & Dist. Parbhani.
 2. Shaikh Aminabee W/o Shaikh Lal
Age: 55, Occu: Labour,
R/o Pathara,
Tal. & Dist. Parbhani
- ...Appellants

Versus

1. Ramgiri Haricharanrao S/o Kondalrao,
Age- Major, Occu: Agril.,
R/o 10-1-756/2, Santosh Nagar,
Karimnagar,
Tal & Dist Karimnagar.
 2. Chola Mandalam MS General Insurance Co. Ltd
CTS. No.14536, 3rd Floor Oberoi Tower
Jalna Road, Amarpreet Chowlk, Aurangabad,
Dist. Aurangabad.
 3. Sk. Rubina W/o Sk.Mujawar @
Sk. Rubina w/o Sk. Hussain (Deleted)
Age: 20 yrs, Occu: Labour,
R/o Ghatnandur, Tal Ambejogai,
Dist. Beed.
- ...Respondents

...

Mr. S.B. Choudhari, Advocate for Appellants.
Mr. S.G. Chapalgaonkar, Advocate for Respondent
No.2.

...

**CORAM : P.R. BORA, J.
DATED : 22nd JANUARY, 2019.**

ORAL JUDGMENT:-

. Heard Shri Choudhari, the learned counsel
appearing for the appellants and Shri S.G.

Chapalgaonkar, the learned counsel appearing for the insurance company.

2. When the present matter is taken up for hearing, it is revealed that the appellants have questioned the order passed by the Motor Accident Claims Tribunal at Parbhani dated 11/07/2016 in Motor Accident Claim Petition No.229 of 2015 under Section 140 of the Motor Vehicles Act. The Tribunal has directed the payment of the NFL compensation to the present appellants only from the owner of the offending vehicle and the insurance company is not held liable to pay the said amount of compensation. It is informed that the claim petition itself is ripe for hearing and it is fixed for recording of evidence now.

3. The learned counsel for the appellants submitted that the Tribunal did not hold the insurance company jointly and severally liable to pay the amount of NFL compensation only on the ground that in the insurance policy the risk of coolie is not covered. The learned counsel submitted that the appellants have placed on record the insurance policy which clearly indicates that

the risk of coolie was covered. In the circumstances, the learned counsel has prayed for allowing the appeal by holding the insurance company also responsible jointly and severally to pay the amount of NFL compensation.

4. Shri Chapalgaonkar, the learned counsel appearing for the insurance company submitted that the motor accident claim petition itself is ripe for hearing and is placed for recording of evidence. In the circumstances, the objections as are raised in the present appeal can be kept open and the Tribunal may be directed to dispose of the claim petition on its own merits as expeditiously as possible without getting influenced by the earlier order. I find the submission made by Shri Chapalgaonkar acceptable. In view of the above, the following is passed:

ORDER

i) The Tribunal is directed to dispose of the Motor Accident Claim Petition No.229 of 2015 as expeditiously as possible and preferably within a period of six months from the date of this order.

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ii) The Tribunal shall decide the claim petition on its own merits without getting influenced by the earlier order passed by it.

iii) The issues as are raised in the present appeal are kept open to be agitated before the Tribunal.

iv) Execution of NFL order shall be subject to outcome of the main claim petition.

v) The first appeal stands disposed of in the aforesaid terms.

(P.R. BORA, J.)

Mujaheed//