

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 4166 OF 2015
IN
FIRST APPEAL (ST) NO. 34638 OF 2014
WITH
CIVIL APPLICATION NO. 4167 OF 2015
IN
FIRST APPEAL (ST) NO. 34638 OF 2014

Royal Sundaram Allianz Insurance Co. Ltd. ..Appellant/Applicant

v/s.

Shri Suresh Damodar Tembre & Anr. ..Respondents

Mr. Rahul Mehta i/b. KMC Legal Venture for the Appellant/Applicant.
None for the Respondent.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 24th SEPTEMBER, 2019.**

P.C.

1. The applicant-appellant herein has sought to condone the delay of 240 days in filing the appeal, challenging the order dated 28.1.2014 in MACT Application No. 2153 of 2012. By the impugned Order the learned Member of the Claims Tribunal, Mumbai has

allowed the application under Section 140 of the Motor Vehicles Act, and awarded interim compensation of Rs. 25,000/- to the Respondent no.1 -the original claimant . The main ground of challenge is that the policy produced by the claimant is a fake and fabricated policy. Needless to state that the defence raised by the appellant insurance company cannot be considered at this interim stage, and the same shall be decided at the time of final decision of the claim. Depriving the claimants of the interim relief on the basis of such defences which is yet to be proved, will frustrate the very object of the provision.

2. Under the circumstances, I am not inclined to interfere with the impugned order. The appeal is dismissed. All points and contentions are kept open. Withdrawal of the interim compensation shall be subject to the outcome of the claims petition. Statutory deposit may be transferred to the Claims Tribunal.

3. Both Civil applications stand disposed of in view of dismissal of the appeal.

(ANUJA PRABHUDESSAI, J.)