

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

908 FIRST APPEAL NO.2345 OF 2019

NEW INDIA ASSURANCE CO. LTD., THR ITS
AUTHORIZED SIGNATORY, AURANGABAD
VERSUS
KAMALBAI MURLIDHAR JOGDAND AND ANR

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Mr.M.R. Deshmukh, Advocate for appellant
Mr.Shrikant Kulkarni, Advocate for respondent no.1.
Mr.Vijaykumar B. Sargar, Advocate for respondent
no.2.

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**CORAM: V.L. ACHLIYA,J.
DATE : 08.01.2020**

ORAL ORDER:

Being aggrieved by the order dated 25.03.2019 passed by the learned Member, Motor Accident Claims Tribunal/District Judge-2, Ambajogai in Motor Accident Claims Petition No.82/2018 to allow the application filed under section 140 of the Motor Vehicle Act and directing the appellant to pay amount of Rs.50,000/- to the claimants, the appellant – Insurance Company has preferred this appeal.

2. Heard learned counsel for the appellant and respondents. Perused the impugned order.

3. On due consideration of submissions advanced in the light of order under challenge, I am of the view, the appeal preferred by the appellant is devoid of merit. The order passed by the Tribunal is well reasoned. The claimants have taken the plea that the deceased was working as a cleaner on the vehicle in question. The respondent no.1 the insured-owner of the vehicle involved in the accident appeared in the matter and admitted the case of the claimants that the deceased was working with him as a cleaner. In that view, the Tribunal is fully justified in allowing the application and directing the appellant to pay the amount of Rs.50,000/- on account of no fault liability.

4. While deciding the application under Section 140 of the M.V. Act, the Tribunal is not required to examine the case in depth. The defence of the appellant – insurance company that the deceased was travelling as gratuitous passenger can be considered, while deciding the case on merits. In that view, there is no perversity in the order passed by the Tribunal so as to call interference with the order passed in exercise of appellate

jurisdiction. I am therefore not inclined to entertain the appeal. The appeal is dismissed with no order as to costs.

5. However, it is clarified that the payment of compensation shall be subject to final outcome of decision in appeal. Respondent no.1-claimant is permitted to withdraw the amount of Rs.50,000/- deposited by the appellant – Insurance company with this Court.

[V.L. ACHLIYA]
JUDGE

SGA