IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 **FIRST APPEAL NO.304 OF 2015**

SHRIRAM ENERAL INSURANCE COMPANY LIMITED
VERSUS
ALKA VILAS JAWALE AND OTHERS
...

Mr.S.G. Chapalgaonkar, Advocate for appellant.
Mr.S.W. Mundhe, Advocate for respondent nos.1 to 4.
Mr.Moinpasha Shaikh Farid h/f Mr.A.L. Kanade, Advocate for respondent no.5.
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CORAM: V.L. ACHLIYA,J.
DATE : 15.01.2020

ORAL ORDER:

Leave granted to correct the date of order in memo of appeal.

2. Being aggrieved and dissatisfied by the order dated 05.03.2014 passed by the Member, Motor Accident Claims Tribunal, Ambajogai in M.A.C.P. No.159/2012, the appellant (original respondent no.2) insurance company has preferred this appeal.

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

4. In view of challenge raised in appeal confines to order passed under section 140 of the Motor Vehicle Act, it is not necessary to discuss the facts in detail.

5. In brief, it is the contention of learned counsel for the appellant that the order is not sustainable for the sole reason that the risk of the deceased-passenger was not covered under the terms of policy. The vehicle involved in the accident is goods vehicle registered for carriage of goods. At the time of incident, the deceased along with four persons were travelling in the Goods vehicle as passengers. It is submitted that in view of the fact apparent from the face of record, the appellant-insurance company is not liable to pay any compensation including the compensation under no fault liability. The Tribunal has overlooked the aspect apparent from the face of record and passed the impugned order.

6. On the other hand, learned counsel for the respondents-claimants and insured support the order passed by the Tribunal and submits that at the stage of deciding application under section 140 of the Motor

Vehicle Act, no detail inquiry is contemplated and order passed is well within four corners of law.

7. On due consideration of submissions advanced and further taken into consideration the fact that the impugned order passed on 05.03.2014 and now the Claim petition is ready for hearing on merits, I am of the view, the appeal to be disposed of with directions to decide the case in time bound manner. The impugned order is an interim order and same is subject to outcome of decision in appeal. In that view, the Tribunal can consider the defence of the appellant-insurance company while deciding the case on merit and pass the appropriate orders in respect of payment made under no fault liability. Accordingly, the appeal is dismissed. The Tribunal is directed to expedite the hearing of the case and decide the same as expeditiously as possible and preferably within three months from the date of passing of order by this Court.

8. Liability of the appellant-insurance company as to the payment of amount in terms of order shall be subject to final outcome of

the main proceedings before the Tribunal.

9. All the contentions raised in the appeal kept open for consideration before the Tribunal. The amount, if any, deposited in this Court and lying invested then same be transferred to Motor Accident Claims Tribunal, Ambajogai to be considered as deposit made in M.A.C.P. No.159/2012.

10. Registry is directed to immediately send Record and Proceedings to the Motor Accident Claims Tribunal, Ambajogai to enable the Tribunal to decide the case in time bound manner.

11. The appeal stands disposed of in above terms.

[V.L. ACHLIYA]
JUDGE

SGA