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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.51 OF 2020
WITH
INTERIM APPLICATION NO.1 OF 2019

United India Insurance Co. Ltd.	...Appellant
V/s.	
Bebibai M. Tajanpure & Ors.	...Respondents

WITH
INTERIM APPLICATION NO.1 OF 2019
IN
FIRST APPEAL NO.51 OF 2020

Bebibai M. Tajanpure & Ors.	...Applicants
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IN THE MATTER BETWEEN :

United India Insurance Co. Ltd.	...Appellant
V/s.	
Bebibai M. Tajanpure & Ors.	...Respondents

Mr.Amol Gatne for the Appellant.

None for the Respondents.

CORAM : R.D. DHANUKA, J.
DATE : 3RD FEBRUARY, 2020.

P.C. :-

1. By this First Appeal, the appellant has impugned the judgment and award dated 13th September 2019 rendered by M.A.C.T. Nashik allowing the application (Exhibit – 4) filed by the claimants and directing the appellant to pay 50,000/- to the applicant nos.1 and 5 only.

2. Mr.Gatne, learned counsel appearing for the appellant states that the Tribunal has not made it clear in the impugned order that the defence raised by the appellant before the Tribunal on merits of the matter would be available to the appellant at the time of hearing of the claim application.

3. It is submitted by the learned counsel that the Tribunal has also not passed any order for recovery of the amount from the owner of the offending vehicle in the impugned order.

4. Insofar as the first submission of the learned counsel for the appellant is concerned, a perusal of the impugned order rendered by the Tribunal indicates that the Tribunal has recorded a *prima-facie* finding that the cheque dated 12th September, 2013 for the premium, issued by the respondent no.2 in favour of the insurance company was returned unpaid with the endorsement “funds insufficient” dated 23rd September, 2013. The insurance company has received the endorsement containing the remark dishonoured on 23rd October, 2013. The accident admittedly had taken place on 11th October, 2013 i.e. before depositing the cheque for clearance. In my view, the finding rendered by the Tribunal in the said order being *prima-facie* finding, the Tribunal while disposing of the application filed under section 166 of the Motor Vehicles Act would not be influenced by that *prima-facie* findings.

5. With the aforesaid observations, I am not inclined to

interfere with the order dated 13th September, 2019. The appeal is dismissed with aforesaid clarification. There shall be no order as to costs.

6. In view of dismissal of the First Appeal, Interim Application No.1 of 2019 does not survive and is accordingly dismissed.

7. The office is directed to transmit the statutory amount of Rs.25,000/- to the M.A.C.T., Nashik expeditiously.

8. All parties as well as the Tribunal to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)