

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

FIRST APPEAL NO. 968 OF 2018

Reliance General Insurance Co. Ltd., thr. its Branch Manager
..vs..

Dyaneshwar s/o Chandrabhanji Konge and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri H.N. Verma, Advocate for appellant.
Shri P.S. Mirache, Advocate for respondent no.1.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 09/02/2021

The Appellant herein has challenged the order dated 17.06.2017 whereby the Claims Tribunal has allowed the application under Section 140 of the Motor Vehicles Act and directed the Appellant and the owner of the offending vehicle to pay interim compensation of Rs.25,000/- within 45 days from the date of the order with interest as stated in the impugned order.

2. Learned Counsel for the Appellant states that the Appellant-Insurance Company has disputed its liability to indemnify the insured mainly on the ground that the policy cover was the period from 31.01.2014 till 30.01.2015 whereas the accident was caused on 30.01.2014. It is stated that the vehicle was not covered as on the date of the accident and as such the Insurance Company is not liable to indemnify the insured.

3. The record indicates that the accident was caused on 30.01.2014 and that Respondent no.1/Claimant had sustained permanent disability as a result of injury sustained in the said accident. The offending vehicle i.e. Tipper bearing No. MH-40-N-7529 was insured by the Appellant-Insurance Company. The proposal form indicates that the period of the insurance for which form was submitted was from 28.01.2014 to 27.01.2015. It is stated that the insured had paid an amount of Rs.37,200/- on the same day on which the form was issued and which was signed by the authorized signatory. The Appellant has disputed this fact. It may be mentioned that the said disputed question is required to be decided on merits. Considering the object of Section 140 of the Motor Vehicles Act, respondent no. 1 cannot be deprived of interim relief at this stage.

4. Under the circumstances, this appeal has no merits and accordingly dismissed. The amount deposited by the Appellant-Insurance Company before this Court be transfer to Claims Tribunal, Nagpur. Considering the fact that the accident is of the year 2014, the Claims Tribunal is directed to dispose of the petition as expeditiously as possible and in any way within a period of six months form the date of this order. It is made clear that in the event, the respondent no.1 is permitted to withdraw the said amount, it shall be subject to an undertaking that the said amount will be refunded in the event the

Appellant-Insurance Company succeeds in proving its defence.

JUDGE

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