

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

910 FIRST APPEAL NO.1647 OF 2022
WITH CA/10425/2022 IN FA/1647/2022

RELIANCE GENERAL INSURANCE CO LTD
VERSUS
SAJEDA GULAB TAMBOLI AND OTHERS

...
Advocate for Appellant : Mr. Dahat Rohit H.

....
CORAM : S. G. DIGE, J.
DATE : 30.09.2022

PER COURT :-

This appeal is preferred against the order passed by Member, Motor Accident Claims Tribunal, Vaijapur (for the the 'Tribunal') under Section 140 of Motor Vehicle Act (for short M.V. Act) below Exh. No.5.

2. Learned counsel for the appellant submits that the Tribunal has fastened the liability on appellant under Section 140 of the Motor Vehicle Act and directed the appellant to pay Rs. 50,000/- jointly and severally along with other insurance company i.e. respondent No.5. Learned counsel further submits that in written statement filed before the Tribunal the appellant had taken the defence that out of two vehicles involved in the said accident, the vehicle i.e. swift car bearing Registration No. MH-02-AU-5376 was not insured with the appellant. In spite of that the Tribunal has

fastened liability on the appellant. The said order is challenged by the appellant by way of this appeal.

3. The appellant has tendered the order passed by the Tribunal. It is taken on record. During pendency of this appeal, the claim petition filed under Section 166 of Motor Vehicle Act filed by original claimant respondent nos. 1 to 3 herein has been decided by the Tribunal vide said order the Tribunal has dismissed the claim petition against the present appellant. Hence learned counsel for the appellant requested to allow the appeal.

4. This Court has issued notices to the respondents but record shows that they are in await category.

5. Considering submission of learned counsel for the appellant, it appears that the vehicle involved in the accident was not insured with the appellant insurance company and the said fact is proved before the Tribunal under the proceeding filed under Section 166 of the Motor Vehicle Act and accordingly the Tribunal has dismissed claim petition against the appellant. Hence I pass the following order.

ORDER

- (i) The appeal is allowed.
- (ii) The order passed by the Tribunal under Section 140 of the

M. V. Act against the appellant is quashed and set aside.

- (iii) Appellant is entitled for refund of deposited amount along with interest thereon.
- (iv) The appeal is disposed of.
- (v) Pending Civil Application disposed of.

(S.G. DIGE,)
JUDGE