**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 960 OF 2022**
**WITH**
**INTERIM APPLICATION NO. 17733 OF 2022**

Reliance General Insurance Company Ltd. …. Appellant

v/s.

Pradeep Mansukhray Vaidya & Ors. …. Respondents

Ms. Shalini Shankar for the Appellant.
None for the Respondents.

**CORAM: ANUJA PRABHUDESSAI, J.**
**DATED : 16th NOVEMBER, 2022.**

**<u>P. C. :-</u>**

. The Appellant – Insurance Company has challenged the order dated 02/03/2022 whereby the learned Member, Motor Accident Claims Tribunal, Mumbai, has allowed the application under section 140 of Motor Vehicles Act and has awarded compensation of Rs.25,000/- to the Respondent – claimant.

2. The Respondent–original claimant had filed a claim petition under section 166 of Motor Vehicles Act in view partial permanent disablement (49%) sustained by the Claimant in a motor vehicular accident involving Motor Car bearing No.MH-04-BD-8537. The Respondent had claimed that while he was proceeding on the side of the road, near Gokhale bridge, one motor car bearing No. MH04-BD-8537 came from behind

in rash and negligent manner and dashed against the Claimant. The claimant had alleged that he had sustained injuries in the said incident resulting in 49% permanent disability . The claimant therefore sought compensation from the owner and insurer of the offending vehicle under section 166 with application for interim compensation under section 140 of the Motor Vehicles Act.

3. The Appellant disputed its liability to indemnify the insured on the ground that the policy is fake and fabricated.

4. The Tribunal observed that the Applicant has proved that the offending vehicle was involved in the accident and the same was insured by the Appellant Insurance Company and hence held that the Appellant – Insurance Company is liable to pay compensation under section 140 of MV Act. Aggrieved by this order, the Applicant -Original Complainant has filed this appeal.

5. At the outset, it may be mentioned that the object of section 140 of Motor Vehicles Act which is based on the principal of “no fault liability”, is to provide immediate financial help to the victims in case of death or permanent disablement as a result of motor vehicular accident. The compensation payable under section 140 of MV Act is in addition to the compensation payable under any other law in force except

compensation under section 163A. It has to be borne in mind that Section 140 of MV Act is a welfare legislation and such proceedings are to be decided in summary manner. Nevertheless though summary in nature, the Claims Tribunal must arrive at a finding that the accident as alleged did take place resulting in death of a person or permanent disablement due to the injuries sustained in the accident and having regard to the facts stated in the claim petition, prima facie the risk was covered by the insurance policy. The object of section 140 is to provide immediate financial help to the victims of the accident. The mandate of sub-section (2) of Section 141 is to dispose of the claim for compensation under section 140 as expeditiously as possible. Hence, conducting indepth inquiry into the defence under section 149(2) at this stage would defeat the very object of this provision.

6. Furthermore, the interim compensation received under sub-section 2 of section 140 of MV Act gets merged with the compensation adjudicated on the principal of 'fault liability' under section 166 of the Motor Vehicles Act. A full fledged inquiry into such defence can always be made in claim petition under section 166 of MV Act. In the event the Insurance Company eventually succeeds in its defence under section 149(2) and the Tribunal holds that the Insurance Company is not liable to indemnify the insurer, section 149(3) permits the insurer to recover

such an amount from the insurer/owner of the vehicle in question.

7. In the instant case, the claimant has suffered permanent disablement due to the injuries sustained in the accident. The facts stated in the claim petition prima facie indicate that the risk was covered under the insurance policy. The defence that the policy is fake and fabricated will have to be considered and decided on merits while deciding the application under section 166 of the MV Act. Suffice it to say that if the insurance company eventually succeeds in proving its defence and is exonerated of its liability to indemnify the third party, the Tribunal can pass appropriate order at the stage of final award, directing the owner to refund the amount along with interest thereon to the insurance company.

9. Under the circumstances and in view of the reasons stated above, the Appeal is dismissed. Pending applications, if any are also dismissed in view of dismissal of the Appeal.

**(SMT. ANUJA PRABHUDESSAI, J.)**