IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1484 OF 2016

WITH

CIVIL APPLICATION NO. 749 OF 2018

IN

FIRST APPEAL NO. 1484 OF 2016

United India Insurance Company Ltd … Appellate

Versus

Shri Pradipkumar Subhash Gupta and Anr ...Respondents

WITH

CIVIL APPLICATION NO. 738 OF 2018

IN

FIRST APPEAL NO. 1468 OF 2016

Shri Raju Chandrika Gupta … Applicant

Versus

United India Insurance Company Ltd ...Respondents

WITH

FIRST APPEAL NO. 1569 OF 2016

WITH

INTERIM APPLICATION NO. 56 OF 2019

IN

FIRST APPEAL NO. 1569 OF 2016

United India Insurance Company Ltd … Appellate

Versus

Shri Subhashchandra Jivdhan Gupta and Anr ...Respondents

WITH

CIVIL APPLICATION NO.1692 OF 2018

IN

FIRST APPEAL NO. 1569 OF 2016

Shri Subhashchandra Jivdhan Gupta … Applicant

Versus

United India Insurance Company Ltd ...Respondents

WITH

FIRST APPEAL NO. 1573 OF 2016

WITH

INTERIM APPLICATION NO. 57 OF 2019

IN

FIRST APPEAL NO. 1573 OF 2016

United India Insurance Company Ltd … Appellate

Versus

Shri Ravindra Ramkishan Gupta and Anr ...Respondents

WITH

CIVIL APPLICATION ST NO. 3565 OF 2018

IN

FIRST APPEAL NO. 1573 OF 2016

Shri Ravindra Ramkishan Gupta and Anr … Appellate

Versus

United India Insurance Company Limited ...Respondents

WITH

FIRST APPEAL NO. 1570 OF 2016

WITH

CIVIL APPLICATION NO. 2288 OF 2019

IN

FIRST APPEAL NO. 1570 OF 2016

Shri. Lakhan Badri Gupta … Appellate

Versus

United India Insurance Company Limited ...Respondents

WITH

FIRST APPEAL NO. 1563 OF 2016

WITH

CIVIL APPLICATION NO. 99 OF 2022

IN

FIRST APPEAL NO. 1563 OF 2016

Shri. Bangali Fula Gupta and Anr … Appellate

Versus

United India Insurance Company Limited ...Respondents

Adv. Mr Rahul Mehta i/b KMC Legal Venture for Appellant

Adv. Mr. S.R. Gupta for Respondent Nos. 1 and 2 for the Applicant

CORAM : ANUJA PRABHUDESSAI, J.

DATE : 8th July, 2022

***P.C.* :**

1. The appellant herein has challenged the Judgment and Award dated 18.3.2016 in Claim Application No. 1490 of 2009 passed by MACT, Mumbai, partly allowing application under Section 166 of M.V. Act, filed by the respondents in the respective Claim Petitions for injuries sustained in motor vehicular accident on 24.2.2009.
2. The Respondent-Claimant sustained injuries when the tempo they were traveling met with an accident. The Respondent-Claimant claimed that the accident was caused due to rash and negligent driving by the driver of the tempo. The said tempo was insured by the Appellant, Insurance Company. The Respondent-Claimants filed applications under section 166 of M.V. Act claims compensation for injuries sustained in the accident.
3. The defence of the Insurance Company was that the Respondent-Claimants were travelling as gratuitous passengers in a goods vehicle and that, it is not liable to indemnify the insured for breach of terms and conditions of the policy.

4. The Claims Tribunal has recorded a finding that the claimants were travelling in the tempo alongwith goods and as such the Insurance Company is liable to indemnify the insured. Aggrieved by this finding, the Appellant - Insurance Company has filed these appeals.

5. Heard, Shri Mehta, learned Counsel for the Appellant and Shri Gupta, learned Counsel for the Respondent, Claimants. I have perused the records and considered the submission advanced by the learned Counsels for the respective parties.

6. It is not in dispute, that the Vehicle No. MH-40-BG7802 was a goods vehicle and that the Respondent-Claimants were travelling by the said vehicle. DW - 1, witness examined by Appellant - Insurance Company, has deposed that the owner of the goods, who hires the goods vehicle, is covered under the policy. It is in evidence that the respective Claimants were travelling alongwith goods and that they had hired the vehicle to carry their goods. Hence, as per their own admission, the Insurance Company is liable to indemnify the insured. The Appellant - Insurance Company has failed to prove breach of terms and conditions of the policy and hence, the Tribunal

was justified in holding the Insurance Company liable to indemnify the insured.

6. Under the circumstances, appeals have no merits and are accordingly dismissed.

(i) Statutory deposit be transferred to MACT, Mumbai.

(ii) Compensation deposited by the Appellate-Insurance Company be paid to the respective claimants alongwith proportionate interest accrued thereon, as per the Judgment of the Claims Tribunal.

(iii) Pending Civil Applications stand disposed of.

(ANUJA PRABHUDESSAI, J.)