IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1499 OF 2014
WITH
CIVIL APPLICATION NO. 4342 OF 2014
IN
FIRST APPEAL NO. 1499 OF 2014

Royal Sundaram Alliance Insurance
Co. Ltd. …. Appellant
v/s.
Smt. Rupal Sudhir Thanki and ors. …. Respondents

WITH
CIVIL APPLICATION NO. 2473 OF 2015
IN
FIRST APPEAL NO. 1499 OF 2014

Smt. Rupal Sudhir Thanki and ors. …. Applicants

<u>In the matter between :-</u>
Royal Sundaram Alliance Insurance
Co. Ltd. …. Appellant
v/s.
Smt. Rupal Sudhir Thanki and ors. …. Respondents

Mr. Asim Vidyarthi for the Appellants.
Ms. Swati Mehta for Respondent No.1.
Mr. Niketan Nakhawa a/w. Ajay Sharma for Respondent No.4.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 08th JULY, 2022.

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

. This Appeal challenges order dated 20/09/2014 passed by the Member, MACT, Mumbai under section 140 of the Motor Vehicles Act in Application No.898/2013. By the impugned order, the Claims Tribunal has awarded compensation of Rs.50,000/- to the Respondents - claimants on account of death of Sudhir Nathalal Thanki who expired in a motor vehicular accident involving vehicle No.AP-10-AT-8249. The said car was driven by Murali Krishnan. When they were crossing railway line at Chityala and Shrirampuram Railway Stations, a train viz., Chennai Express dashed against the car and they both died in the accident.

2. The Appellant – Insurance Company has challenged the order mainly on the ground that the deceased was an employee and not covered under the insurance policy and hence, it is not liable to pay any compensation under section 140 and 166 of the Motor Vehicles Act.

3. 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.

4. 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.

5. In the instant case, the husband/father of the claimants has expired 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 insurance company is not liable to absolve the insured can be 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.

6. 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.

7. It is stated that the accident is of the year 2012 and the trial has

already commenced. Hence, I am not inclined to interfere with the order. The Claims Tribunal shall make an endeavour to decide the Claim Petition as expeditiously as possible without being influenced by the observations made in the order.

(SMT. ANUJA PRABHUDESSAI, J.)