

AGK

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

**FIRST APPEAL (ST.) NO.27653 OF 2019
WITH
INTERIM APPLICATION NO.1802 OF 2019**

HDFC Chubb General Insurance Co. Ltd. ... Appellant

V/s.

Sonali Mahesh Dhale & Ors. ... Respondents

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Mr. Abhijit P. Kulkarni with Mr. Aditya Mahadik and Ms.
Sweta Shah for the appellant.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 7, 2023

P.C.:

- 1.** The first appeal arises out of order passed on the application filed under Section 140 of the Motor Vehicles Act, 1988 seeking compensation of Rs.50,000/- towards no fault liability on account of death.
- 2.** The claim was filed based on the accident occurred on 5th May 2012 while the deceased was traveling by car driven by opponent no.1. It is contended that while the driver of the car lost control over the car and gave dash to the road divider, it colluded with the tempo resulting into serious injury to the deceased and he died during treatment.
- 3.** The claimant along with other documents filed copy of

insurance policy of the motor vehicle. The appellant raised a defense that the policy was not in force on the date of the accident. The appellant also raised a defense that the driver was negligent while accident took place.

4. The Tribunal rightly held that the said defense can be considered at the time of final disposal of the claim petition. In view of the said fact, the Tribunal was justified in directing the insurance company to pay amount of Rs.25,000/- to the claimant within one (1) week from the date of the order along with interest at the rate of 8% per annum.

5. In that view of the matter, there is no merit in the first appeal. The first appeal is, therefore, dismissed. No costs.

6. In view of dismissal of the first appeal, the civil application does not survive and disposed of as such.

(AMIT BORKAR, J.)