

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 597 OF 2002**

Manik Mahadeo Sathe)
Age 33, Occupation – Agriculture & Grass)
Traders, Resident of Rui, Taluka)
Hatkangale, District)
(Original Claimant)) Appellant

Versus

- 1 Shri Shamrao Anna Bhagat)
Age – Major, Occupation –Driver (Service))
Resident of Karve, Taluka – Walva,)
District :Sangli)
- 2 Shri Aslam Mahammad Husen Shaikh)
Age – Major, Occupation – Transport)
(Trade), Resident of Islampur, Near Bahe)
Naka, Taluka Walva, District : Sangli)
- 3 United India Insurance Co. Ltd.)
Sangli Branch, Sangli)
(Original Opponents)) Respondents

Mr. Ashutosh Gavnekar along with Mr. Rohit Parab i/b. Mr. C. G. Gavnekar, Advocate for the Appellant.

Mr. Padmakant M. Shah, Advocate for Respondent No.3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 25th JANUARY, 2024.

Oral Judgment :

1. The issue involved in this appeal is refund of compensation of Rs.12,000/- awarded under No Fault Liability.

2. It is contention of learned counsel for the appellant/claimant that the Tribunal has dismissed the claim petition. While dismissing the claim petition, the Tribunal has directed the appellant to refund Rs.12,000/- awarded under No Fault Liability, which is not proper. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.3-Insurance Company that the claim petition was dismissed. It means the amount awarded under No Fault Liability was not proper. On that basis, the Tribunal has passed the order which is legal and valid. No interference is required in it.

4. I have heard both learned counsel, perused the judgment and order passed by the Motor Accident Claims Tribunal, Sangli (for short "the Tribunal").

5. The Tribunal has dismissed the claim petition under Section 166 of the Motor Vehicles Act filed by appellant/claimant. While passing the order, the Tribunal has directed respondent No.3-Insurance Company to recover Rs.12,000/- with interest from the appellant/claimant. I am unable to understand the observations of the Tribunal directing the recovery of amount awarded under No Fault Liability. In my view, the order under Section 140 of the Motor Vehicles Act, 1988 was passed by the Tribunal, the amount was deposited by respondent No.3 and it was withdrawn by the appellant/claimant. When the claim petition is

dismissed, the amount awarded under No Fault Liability cannot be recovered. Section 140 of the Motor Vehicles Act reads thus:

140. Liability to pay compensation in certain cases on the principle of no fault. —

(1)...

(2)...

(3) In any claim for compensation under sub-section (1), the claimant shall not be required to plead and establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act, neglect or default of the owner or owners of the vehicle or vehicles concerned or of any other person.

(4)....

[(5)..

Sub-section (3) of this section states that the claimant shall not be required to plead or establish the death or permanent disablement in respect of which claim has been made. So though the claim petition is dismissed, the amount awarded under No Fault Liability cannot be refunded.

6. In view of above, I pass following order :

1. The appeal is allowed.
2. The judgment and order dated 16th April 2001 passed by Motor Accident Claims Tribunal, Sangli, is quashed and set aside.
3. Respondent No.3 shall not recover Rs.12,000/- with interest from the appellant/claimant.

7. Pending applications stand disposed of.

(SHIVKUMAR DIGE, J.)