



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

FIRST APPEAL NO.1639 OF 2019

The Oriental Insurance Company Ltd.

Vs.

Purushottam s/o Shankarrao Sarode and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri Lalit Limaye, Advocate for appellant.

CORAM : M.W. CHANDWANI, J.

DATE : 06.09.2024.

Heard.

2. By this appeal, award dated 07.05.2018 passed by the learned Chairman, Motor Accident Claims Tribunal, Wardha in Motor Accident Claim Petition No.81/2017, under Section 140 of the Motor Vehicles Act, 1988 (for short "M.V. Act"), has been challenged on the ground that driver of the said car was not holding valid driving licence and therefore there is breach of terms and conditions, therefore, it is contended that the Tribunal ought not to have fasten the liability on the appellant.

3. It is the case of the appellant that on 10.07.2016 at about 4 pm claimant was proceeding from Babulgaon towards Wardha on his two wheeler bearing registration no.MH32/A-1058, at that time Tata Indica Vista car bearing registration no.MH29/AR-0828, which was insured with the appellant, gave dash to the claimant. The driver of the said

car was not holding valid driving licence and it is contended that the Tribunal ought not to have fasten the liability on the appellant under Section 140 of the M.V. Act.

4. Needless to mention that the impugned order is passed on under Section 140 of the M.V. Act the principle of No Fault Liability. Whether there was breach of policy by the insured is a matter of trial which can be gone into at the time of merit of the petition after considering the evidence on record. Therefore, the appeal is without substance and accordingly it is dismissed. No costs.

5. Since, nobody appears on behalf of the respondents, the amount deposited by the appellant be remitted to the Tribunal and the Tribunal shall deal with the amount appropriately and may direct for undertaking to be executed by the claimant for withdrawal of the amount.

JUDGE

Wagh