(2011) 05 GUJ CK 0009

In the Gujarat High Court

Case No : First Appeal No. 1447 of 2011 and Civil Application No. 5550 of 2011 in First Appeal No. 1447 of 2011

New India Assurance Co. Ltd. APPELLANT

Vs

Rajubhai Krishnakant Shukla and Others RESPONDENT

Date of Decision : 12-05-2011

Acts Referred:
Motor Vehicles Act, 1988 — Section 140

Citation : (2011) 05 GUJ CK 0009

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : G.C. Mazmudar and H.G. Mazmudar, for the Appellant; None, for the Respondent

Judgement

M.R. Shah, J.—The present First Appeal arises out of the impugned order dated 22/2/2011 passed by learned Motor Accident Claims Tribunal (Main), Kheda at Nadiad below Ex.3 in Motor Accident Claim Petition No. 1852 of 2009 awarding Rs. 25,000/- to the original claimant by way of interim compensation u/s 140 of the Motor Vehicles Act for "No Fault Liability".

2. Having heard Mr. Nanavati, learned advocate appearing on behalf of the Appellant - original Opponent No. 2 - Bajaj Allianz General Insurance Company Limited, as the impugned order is passed u/s 140 of the Motor Vehicles Act, by which the Tribunal has awarded interim compensation u/s 140 of the Motor Vehicles Act, the present appeal is not entertained. However, it is observed that deposit of any amount pursuant to the said order, the same shall be without prejudice to the rights and contentions of the respective parties in the main claim petition and all the defences and contentions, which are available to the respective parties are kept open and the same shall be considered by the Tribunal while deciding the main claim petition. However, as far as the amount to be deposited by the Appellant as per the order passed by the Tribunal is concerned, it appears that while passing operative portion of the order, the

Tribunal has directed to invest 70% amount in any Nationalised Bank and balance amount of 30% is directed to be paid to the claimant by Account Payee Cheque, the same is modified to the extent that the Tribunal is directed to invest the entire amount in any Nationalized Bank initially for a period of five years and the claimant shall be entitled to periodical interest on the same, which shall be paid to the claimant by Account Payee Cheque.

It is further ordered that the original claimant shall not withdraw, abandoned or dismissal for default the main claim petition and pursue the main claim petition on its own merits, if she is interested in getting periodical interest on the aforesaid Fixed Deposit. It goes without saying that if ultimately the Insurance Company succeeds in its defence, then the Tribunal shall pass appropriate order to refund the amount deposited in the Fixed Deposit to the Insurance Company.

3. With these, the present First Appeal is disposed of in view of disposal of main First Appeal, no order in Civil Application and the Civil Application is accordingly disposed of.

