

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.2574 OF 2013

The National Insurance Company
Ltd. ..Appellant

Versus

Subhadra Baburao Mule
and ors. ..Respondents

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Mr.S.P.Chapalgaonkar, advocate for appellant

Mr.G.J.Kore, advocate for respondent nos.1 to 3

Mr.P.S.Chavan, advocate for respondent no.4

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CORAM : M.T. JOSHI, J.

DATE : JANUARY 20, 2015

PER COURT :

Heard both sides.

2] The appellant - insurance company is seeking remand of the matter, as it failed to file the written statement to contest the petition under Section 166 of the Motor Vehicles Act.

3] Mr.Chapalgaonkar submits that the matter was sent for approval to the superior officer of the appellant – insurance company, however, approval came late and by that time, the impugned award came to be passed by learned Member of the Motor Accident Claims Tribunal as per Order VIII Rule 10 of the Code of Civil Procedure, granting compensation of Rs.2,50,000/- with interest at the rate of 7.5% per annum.

4] Upon hearing both sides, it is an admitted fact that the amount under the award was deposited by the present appellant and 50% of the same is already withdrawn by the original petitioner nos.1 to 3.

5] Mr.Chavan, learned counsel for respondent no.4 – owner of the vehicle, submits that the owner of the vehicle also failed to file the written statement and thereafter, as the appellant

seeks opportunity to contest the claim petition, similar relief may be granted to respondent no.4.

6] Considering the fact that original petitioners have already withdrawn 50% of the amount deposited by the present appellant, the appeal can be allowed on conditions.

7] Hence, the following order :-

(a) The appeal is allowed.

(b) The impugned judgment and award is quashed and set aside. The matter is remanded back to the learned Member, Motor Accident Claims Tribunal, Osmanabad.

(c) Parties are directed to appear before learned Member of Motor Accident Claims Tribunal, Osmanabad, on 12th March, 2015. Thereafter, present appellant as well as present respondent no.4 shall file their written statements within four weeks from the date of appearance. They shall not seek any adjournment.

(d) Learned member to take efforts to expedite hearing in the proceedings and shall see that the proceedings would be concluded within a period of six months from the date of appearance of the parties.

(e) The appeal is disposed of accordingly.

[M.T. JOSHI, J.]

kbp