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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

FIRST APPEAL NO.1947/2012

Bebabai Divan Gokul.
...Appellant..

Versus

Kailas Lalchand Mali & another.
...Respondents...

.....

Shri Shrikant S. Patil, Advocate for appellant.
Shri P.B. Pawar, Advocate for respondent no.1.
Shri S.G. Chapalgaonkar, Advocate for respondent no.2.

.....

CORAM: N.W. SAMBRE, J.

DATE: 24.07.2015

ORDER :

- 1] Heard learned counsel for the appellant.
- 2] Present first appeal is by the claimant being aggrieved by the fixing of responsibility on the owner and not on the insurance company about payment of compensation.
- 3] Having gone through the observations made by the Tribunal, *prima-facie*, I am of the opinion that present appeal at the behest of the claimant is not tenable as it

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hardly matters for the appellant / claimant as to from whom she gets the amount of compensation i.e. from the vehicle owner or the insurance company.

4] The peculiar fact of the present case is that the appellant – claimant has preferred the present appeal without initiating any execution proceedings against the owner. Admittedly, the owner of the vehicle has also not preferred any appeal before this Court so as to avoid the statutory mandate of deposit of the amount under the award.

5] The claim of the appellant with the above referred background if analyzed on the aspect of the findings recorded by the Tribunal and also that of the issues framed in support thereof, it is required to be noted that the Tribunal, based on the evidence that was brought on record, has reached to a finding that the appellant is entitled for the compensation, however, such compensation is to be paid by the vehicle owner.

6] In my opinion, no case for interference is made out with the above-referred background i.e. not preferring appeal by the vehicle owner and the claim of the appellant that she is entitled for the compensation not

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from the owner but from the insurance company is liable to be dismissed and is hereby dismissed. The present first appeal is, therefore, dismissed. No order as to costs.

(N.W. SAMBRE, J.)