

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

**FIRST APPEAL NO.2856 OF 2013
WITH
FIRST APPEAL NO.2857 OF 2013**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.D.R.Kale Patil, advocate for the Appellant.
Mr.M.P.Kale, advocate for Respondent Nos.1 and 2.
Mr.S.G.Chapalgaonkar, advocate for Respondent No.3.

**CORAM : S.V.GANGAPURWALA, J.
Date : 26.08.2015.**

PER COURT :

1. Heard.
2. Both these appeals are filed by the owner of the vehicle, who is made liable to pay the compensation amount as per the Judgment of the Tribunal in a claim for compensation filed by the Respondents-claimants.
3. Mr.Kale, learned counsel for the appellant submits that as the appellant could not appear before the Court, the fact that the driver of the vehicle was possessing license could not be brought to the notice. In fact, the proceedings were bad on account of non-joinder of necessary parties. The driver of the vehicle was not

added as a party. According to the learned counsel, the copy of the license held by the driver of the vehicle is produced on record along with the Civil Application. The only reason to exonerate the Insurance Company is that the driver of the vehicle was not possessing valid and effective license.

4. I have heard Mr. Chapalgaonkar, learned counsel for the Insurance Company, who submits that the genuineness of the document will be required to be established. The same can not be considered in the appeal. No reason is put forth by the appellant for not producing the said document before the Tribunal.

5. Mr.Kale, learned counsel for the claimants submits that in fact, owner should deposit the entire amount.

6. I have considered the submissions. It is a matter of record that the driver of the vehicle in question was not added as a party. Some additional documents are sought to be placed on record alongwith Civil Application, such as the agreement said to have been executed by the appellant in favour of third party, the license held by the driver of the vehicle. It is also a fact that the driver of the vehicle was not a party before the Tribunal. The investigation will be required with regard to the genuineness of the documents produced, so also the proof of it.

7. In light of the above, it would be appropriate to direct the claimants to add driver of the vehicle as a party before the Tribunal

and to relegate the parties to the Tribunal.

8. In light of the above, the impugned Judgments and Awards are quashed and set aside. The parties are relegated before the Motor Accident Claims Tribunal. The parties shall appear before the Motor Accident Claims Tribunal on 28.9.2015. The claimants shall add driver as a party. The respective parties are permitted to file additional evidence. The Tribunal shall issue notice to the added parties and after giving opportunity to all parties shall decide the claim petition expeditiously.

9. The amount of Rs.25,000/- (Rupees twenty five thousand only) deposited by the appellant is allowed to be withdrawn by the claimants which amount would be adjusted in the final order that would be passed by the Tribunal. The First Appeals are accordingly disposed of. No costs.

10. The amount deposited in this Court be remitted to the Tribunal. The Civil Application also stands disposed of.

(S . V . GANGAPURWALA, J .)

Dt.26.08.2015.
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