

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11221 OF 2014
IN
FIRST APPEAL STAMP NO. 28006 OF 2014

WITH

FIRST APPEAL STAMP NO. 28006 OF 2014
AND
CIVIL APPLICATION NO. 11222 OF 2014
IN
FIRST APPEAL STAMP NO. 28006 OF 2014

The Reliance General Insurance
Company, through its Authorized
Signatory/Manager, Office at
Opposite District Court New Building
2nd Floor, Aurangabad Business Center,
Adalat Road, Aurangabad

**APPLICANT/
APPELLANT**

VERSUS

1. Afsar Shah s/o Babu Shah,
Age : 26 years, Occu. Mason,
R/o Dongargaon, Tq. Sillod,
District Aurangabad
2. Rajesh s/o Kashinath Thorewal,
Age ; Major, Occu. Business,
R/o Pardeshi Mohala, Bhokardan,
Tq. Bhokardan, District Jalna
3. Sk. Salim s/o Sk. Rahim,
Age : Major, occu. Driver,
R/o Shahu Nagar, Sillod,
Tq. Sillod, District Aurangabad

RESPONDENTS

Mr. S.G. Chapalgaonkar, Advocate for the applicant/
appellant

Mr. S.W. Jawale, Advocate for respondent No.1

Mr. S.A. Gaikwad, Advocate for respondents No. 2 and 3

CORAM : M.T. JOSHI, J.

DATE : 02/02/2015

ORAL ORDER :

1. Learned counsel Mr. S.W. Jawale submits that he has instructions to appear for the respondent No.1 i.e. original claimant who is duly served. Similarly, learned counsel Mr. S.A. Gaikwad submits that he has instructions to appear for respondents No. 2 and 3 i.e. the owner and driver of the vehicle.

2. Heard both sides.

3. For the reasons stated in the application, the delay is condoned. Civil Application No. 11221/2014 accordingly stands allowed and disposed of. Office to register the appeal.

4. Appeal stands **admitted** on registration thereof. Learned counsel for the respondents waive service of notice for the respective respondent/s.

5. With consent of learned counsel for the parties, heard finally.

6. Learned counsel for the respondent No.1 submits that in fact, part of the evidence of respondent No. 1-claimant is completed. In that view of the matter, since this is challenge to the order passed by the learned Member of the Motor Accident Claims Tribunal in an application under section 140 of the Motor Vehicles Act, the following order:-

7. The appeal is hereby allowed without any order as to costs. The order dated 12.08.2013, passed by the learned Member, Motor Accident Claims Tribunal, Aurangabad on an application (Exhibit-5) in Motor Accident Claims Petition No. 828/2011, is hereby set aside. Instead, the matter is remanded back to the learned Member of the M.A.C. Tribunal, Aurangabad to decide the issue of grant of the amount under the provisions of Section 140 of the Motor Vehicles Act at the time of passing final order under section 166 of the Motor Vehicles Act, on its own merit.

. The learned Member is directed to expedite the hearing in the proceedings and shall decide the proceeding within a period of four months.

8. The amount deposited in this court be remitted to the office of the Motor Accident Claims Tribunal, Aurangabad to pass necessary orders at the time of final disposal of the proceedings under section 166 of the Motor Vehicles Act.

. The first appeal accordingly stands disposed of.

9. In view of disposal of the first appeal, civil application No. 11222/2014, for grant of stay, does not survive and hence, stands disposed of.

[M.T. JOSHI]
JUDGE

npj/cal1221-14