

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

1. CIVIL REVISION APPLICATION NO.548 OF 2012

The New India Assurance Co.Ltd	..	Applicant
Vs		
Smt. Hirabai Maruti Mhaske and Ors	..	Respondents

WITH

2. CIVIL REVISION APPLICATION NO.2 OF 2013

The Oriental Insurance Co. Ltd	..	Applicant
Vs		
Smt. Indubai Kisan Gorade and Ors	..	Respondents

WITH

3. CIVIL REVISION APPLICATION NO.3 OF 2013

The Oriental Insurance Co. Ltd	..	Applicant
Vs		
Smt. Hirabai Maruti Mhaske and Ors	..	Respondents

WITH

4. CIVIL REVISION APPLICATION NO.4 OF 2013

The Oriental Insurance Co. Ltd	..	Applicant
Vs		
Smt. Dhondibai Kashinath Shirole and Ors..		Respondents

WITH

5. CIVIL REVISION APPLICATION (ST) NO.15150 OF 2011

The New India Assurance Co.Ltd	..	Applicant
Vs		
Smt. Indubai Kisan Gorade and Ors	..	Respondents

WITH

6. CIVIL REVISION APPLICATION (ST) NO. 15161 OF 2011

The New India Assurance Co.Ltd	..	Applicant
Vs		
Smt. Dhondibai Kashinath Shirole and Ors	..	Respondents

Mr. S.M.Dange, Advocate for Applicant in CRA/548/2012 & Applicant in CRA(ST)/15150/2011 & CRA(ST)/15161/2011.

Smt. Anita A. Agarwal for Applicant in CRA/2/2013, CRA/3/2013 CRA/4/2013 & Respondent 8 in CRA(ST)/15150/2011 & Respondent 6 in CRA(ST)/15150/2011 & CRA/548/2012.

Mr. G.S. Hegde, Advocate for Respondents 1 to 3 in CRA/548/2012, CRA/3/2013, CRA/4/2013, CRA(ST)/15161/2011 & Respondents 1 to 5 in CRA/2/2013 & CRA(ST)/15150/2011.

Mr. C.M.Lokesh, Advocate for Respondent 4 in CRA/548/2012, CRA/3/2013, CRA/4/2013, CRA(ST)/15161/2011 & Respondent 6 in CRA/2/2013 & CRA(ST)/15150/2011.

Mr Ketan V. Joshi i/b D.S.Joshi, Advocate for Respondent 5 in CRA/4/2013 & CRA/3/2013.

CORAM : R.G.KETKAR,J.

DATE : 10/08/2015

PC:

1. Heard Mr. S.M.Dange, learned counsel for Applicant in CRA No.548 of 2012 and Applicant in CRA(ST) No. 15150 of 2011 and CRA(ST) No. 15161 of 2011, Ms. Anita Agarwal for Applicant in CRA No.2, 3 and 4 of 2013 and Respondent no. 8 in CRA(ST)/15150/2011 & Respondent 6 in CRA(ST) no. 15150 of 2011 and CRA No.548 of 2012, Mr. G.S. Hegde, learned counsel for Respondents 1 to 3 in CRA No. 548 of 2012, CRA No.3 and 4 of 2013, CRA(ST) No.15161 of 2011 & Respondents 1 to 5 in CRA No.2 of 2013 and CRA(ST) No.15150 of 2011, Mr. C.M.Lokesh, learned counsel for Respondent 4 in CRA no. 548 of 2012, CRA no.3 and 4 of 2013, CRA(ST) no.15161 of 2011 & Respondent 6 in CRA no.2 of 2013 & CRA(ST) no. 15150 of 2011, Mr. Ketan Joshi,

learned counsel for Respondent no. 5 in CRA no.3 and 4 of 2013, at length.

2. Rule. Learned counsel appearing for the respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and Applications are taken up for final hearing.

3. Civil Revision Applications No. 2, 3 and 4 of 2013 are instituted by the Oriental Insurance Company Ltd (for short, 'Oriental Company') challenging the order dated 6.11.2009 passed by the learned Addl. Member, Motor Accident Claims Tribunal, Pune (for short, 'Tribunal'). By that order, the Tribunal held that it has territorial jurisdiction to entertain and try claim applications. The Oriental Company has also challenged the Judgment and order dated 20.11.2010 passed by the Tribunal rejecting Review Applications.

4. Civil Revision Application No. 548 of 2012 as also Civil Revision Applications (Stamp) No. 15150 and 15161 of 2011 are filed by the New India Insurance Company Ltd (for short, 'New India Company') challenging the orders passed by Tribunal and holding that it has territorial jurisdiction to entertain and try the applications filed by the claimants. Review Applications are also dismissed by the Tribunal. Since common questions of law and fact arise in these proceedings, the same can conveniently be disposed by this common order. For appreciating the controversy

raised between the parties, facts from Civil Revision Application No. 2 of 2013 are taken.

5. In support of this Application, Ms Agarwal submitted that on 26.2.2005 there was head on collision between luxury bus having Registration no. MH-15-AK-262 and truck having Registration no. MP-33-H-0425. Luxury bus is insured by the Oriental Company having its office at Nasik. As far as the truck is concerned, that is insured by the New India Assurance Company having its office at Shivpuri in State of Madhya Pradesh. Legal Representatives of Kisan instituted Motor Accident Claim Petition No.991 of 2005 before the Tribunal at Pune. She submitted that in the cause title of the Application, address of the legal representatives is mentioned as "residing at Mhaskewadi, Tq. Parner, District-Ahamednagar. After typed portion, following is hand written portion "also residing at 692-A/2A, Satara Road, A-3 "Pushphas" Housing Society, Pune -411030".

6. In clause 2 of the Application, full address of the person 'dead' is mentioned as Mhaskewadi, Taluka Parner, District-Ahamadnagar. In paragraph 22G, it is asserted that the accident took place within M.P. State. Opponents no. 2 and 4 (New India Company and Oriental Company) have registered offices in Pune within the jurisdiction of the Tribunal and hence Tribunal has got jurisdiction to entertain and try the present claim Applications. In the verification clause, it is stated thus :

“I, Smt.Indubai Kisan Gorade, Age 40, Occupation: Household, R/at Mhaskewadi, Tal-Parner, Dist-Ahamadnagar “

7. Ms. Agarwal and Mr. Dange appearing for the Oriental Company and New India Company respectively submitted that they were not given any opportunity to lead evidence. On the other hand, Mr. Hegde submitted that nothing prevented these companies from leading evidence in support of their contentions. Ms Agarwal and Mr Dange submitted that the order dated 6.11.2009 does not record any reason. Applications for Review was rejected by the Tribunal. Perusal of the first order dated 6.11.2009 shows that no reasons are recorded and, therefore, Tribunal should have reviewed its own order and permitted the parties to lead evidence. Mr. Hegde fairly submitted that the claimants have no objection for setting aside the impugned orders and restoring the applications taken out by the Insurance Companies for deciding the issue of territorial jurisdiction and permitting parties to lead evidence. The Insurance Companies also have no objection as their main grievance is that they were not given opportunity to lead evidence.

8. In view thereof, by consent of the parties, the Applications are disposed of in the following terms:

(i) Impugned orders dated 6.11.2009 and 20.11.2010 are quashed and set aside and the Applications taken out by the

Insurance Companies for deciding preliminary issue of territorial jurisdiction are restored to the file of the Tribunal.

(ii) Tribunal shall give opportunity to the parties to lead evidence in support of their respective cases.

(iii) Parties agree that they will appear before the Tribunal on 7.9.2015 and, for that purpose, fresh notice need not be issued to them.

(iv) Tribunal will permit the parties to lead evidence and decide preliminary issue within three months from the date of appearance of the parties. All contentions of the parties are expressly kept open.

(v) Rule made absolute in the above terms. There shall be no order as to costs.

(vi) Tribunal and parties to act on the authenticated copy of this order.

(R.G.KETKAR, J.)