

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO.91 OF 2005

The United India Insurance Co. Limited, Yavatmal, thr the Regional
Manager, Nagpur

..vs..

Smt. Kirti wd/o Pandharinath Shinde and ors

WITH

FIRST APPEAL NO.110 OF 2005

The United India Insurance Co. Limited, Yavatmal, thr the Regional
Manager, Nagpur

..vs..

Vasant Sahastrabudhe and ors

WITH

FIRST APPEAL NO.115 OF 2005

The United India Insurance Co. Limited, Yavatmal, thr the Regional
Manager, Nagpur

..vs..

Shri Anil Madanlal Chamediya and ors

WITH

FIRST APPEAL NO.125 OF 2005

The United India Insurance Co. Limited, Yavatmal, thr the Regional
Manager, Nagpur

..vs..

Smt. Manisha Bhawe and ors

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

FA No.91 of 2005

Shri D.N. Kukday, counsel for the Appellant.

Shri A.C. Mehadia, counsel for R-4 & 5.

FA No.110 of 2005

Shri D.N. Kukday, counsel for the Appellant.

Shri B.D. Vora, counsel for R-2.

Shri A.C. Mehadia, counsel for R-3 & 4.

FA No.115 of 2005

Shri D.N. Kukday, counsel for the Appellant.

Shri B.D. Vora, counsel for R-1.

Shri A.C. Mehadia, counsel for R-2 & 3.

FA No.125 of 2005

Shri D.N. Kukday, counsel for the Appellant.

Shri B.D. Vora, counsel for R-1 & 2.

Shri A.C. Mehadia, counsel for R-3 & 4.

CORAM : A.P. BHANGALE, J.

DATE : JULY 28, 2015.

Heard learned counsel for the rival parties.

My attention is invited to judgment and order passed by this Court on 23.6.2015 in First Appeal No.416 of 2001 whereby after considering the rulings in the cases of **New India Assurance Company Limited ..vs.. Ashabai and ors.** reported at **I(2009) ACC 800** and **National Insurance Co. Ltd. ..vs.. Bruno Baltazar Saldanha and ors.** reported at **I(2012) ACC 30** the claim petition filed under Section 163A of the Motor Vehicles Act, 1988 (for short, “**the said Act**”) was remanded to the Motor Accident Claims Tribunal concerned to exercise its judicial discretion of

converting the same into claim petition under Section 166 of the said Act and to consider it on merits according to law.

In that view of the matter, this Court passes the following order :

The impugned judgments and awards stand set aside. The claim petitions are restored back to the file of the Motor Accident Claims Tribunal concerned with permission to the claimants to amend the claim petitions so as to convert it into the claim petitions under Section 166 of the Motor Vehicles Act, 1988 and to claim accordingly. It will be open for the respondents in the claim petition to file their written statements. Thereafter, the Tribunal shall give the parties opportunity to contest the claim and to lead their respective evidence. The Tribunal shall hear the parties and decide the claim petitions after converting the same into claim under Section 166 of Motor Vehicles Act as expeditiously as possible.

The amounts withdrawn so far towards payment of compensation by the claimants shall be adjusted subject to final decision in the claim petitions.

Liberty to the appellant to withdraw and

deposit the amount shall be subject to decision in the Tribunal concerned.

The first appeals are allowed and disposed of in aforesaid terms. There shall be no order as to costs.

JUDGE

!! BRW !!

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