

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3009 OF 2016
IN FA/1371/2009

THE ORIENTAL INSURANCE COMPANY LTD., AURANGABAD
VERSUS
SMT. LAXMIBAI WD/O. NARAYAN KHILLARE AND ORS.

...
Advocate for Applicant : Mr. Joshi Anil A
Advocate for respondent 1 to 6: Mr. S.D. Kamble
Advocate for Respondent No.9 : Mr. V.R. Mundada
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CORAM : V. K. JADHAV, J.
DATED : 9th MARCH, 2016

PER COURT:-

1. This Court by order dated 15.9.2014, while admitting the appeal, has directed the appellant insurer to file private paper book within one year from the date of order, failing which the first appeal shall stand dismissed without back reference to the Court. Since the private paper book was not submitted within a period of one year the appeal was dismissed automatically and therefore, this civil application is filed for restoration of appeal.

2. Learned counsel for the applicant submits that the private paper book is now ready and the same will be filed within a period of two weeks from today.

3. Learned counsel for the applicant submits that this Court by

order dated 25.2.2016 in civil application No. 2007 of 2016 permitted the respondents-original claimants to withdraw the entire compensation amount since the appeal came to be dismissed. Learned counsel for the respondents-original claimants has strongly resisted this application.

4. This being the first appeal, preferred against the judgment and award passed by the Tribunal, the conditional order, by which the appeal is dismissed, requires to be set aside and it is accordingly set aside.

5. In view of the above, first appeal No. 1371 of 2009 is restored to its original position. Needless to state that the order dated 25.2.2016 passed in civil application No. 2007 of 2016 is hereby recalled. Civil application is accordingly disposed of.

6. The respondents-original claimants are at liberty to file fresh application for withdrawal of amount.

(V. K. JADHAV, J.)

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