

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

921 CIVIL APPLICATION NO.8649 OF 2015
IN FAST/19461/2015

WITH

CA/8645/2015 IN FAST/19453/2015 WITH CA/8646/2015
IN FAST/19453/2015 WITH CA/8647/2015 IN
FAST/19443/2015 WITH CA/8648/2015 IN
FAST/19443/2015 WITH CA/8604/2016 IN
FAST/19461/2015 WITH CA/8650/2015 IN
FAST/19461/2015 WITH CA/8651/2015 IN
FAST/19578/2015 WITH CA/8652/2015 IN
FAST/19578/2015 WITH CA/8653/2015 IN
FAST/19576/2015 WITH CA/8654/2015 IN
FAST/19576/2015 WITH CA/8598/2016 IN
FAST/19576/2015 WITH CA/8599/2016 IN
FAST/19453/2015 WITH CA/8600/2016 IN
FAST/19443/2015 WITH CA/8603/2016 IN
FAST/19578/2015

CHOLAMANDALAM GENERAL INSURANCE CO. LTD. AND ANR

VERSUS

PANDIT SHIVAJI GAIKWAD

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Adv.for Applicant : Mr. S G Chapalgaonkar;
Mr.Gangakhedkar Shailendra S, Adv. For Respondent
original claimant/s

CORAM : P.R.BORA, J.

DATE : 20th December, 2016.

PER COURT :

1) Heard. For the reasons stated in the
applications, which according to me are just and

sufficient, the delay ranging in between 38 to 234 days occurred in filing the present appeals is condoned. Appeals be registered in accordance with law. CAs for condonation of delay are disposed of.

. After registration of the appeals, issue notice to respondent/s. Shri Gangakhedkar, learned counsel waives service for the Respondent/s – original claimant/s. Service complete.

2) In all these matters, owner of the offending vehicle is Respondent No.2. However, considering the controversy to be determined in the present appeals, it does not appear to me that presence of Respondent No.2 is must in the present appeals. In the circumstance, service of summons on respondent No.2 stands exempted.

3) With the consent of the learned Counsel appearing for the parties, the appeals are finally heard at admission stage. All these

appeals are filed against the order passed by Motor Accident Claims Tribunal (for short, the Tribunal) in the respective claim petitions under Section 140 of the Motor Vehicles Act (for short the MV Act). It is the contention of the appellant – insurance company that the breach of policy conditions is apparent on the face of the record and the risk of the persons unauthorizedly carried in goods carriage as passengers, is not covered under the insurance policy.

. It is further submitted that ignoring the defence as aforesaid the Tribunal has passed the impugned order directing the appellant – insurance company to pay the amount of No fault liability. The learned Counsel submitted that certain further defences are also raised which may also have the material bearing while fixing the responsibility of payment of compensation on the insurance company.

4) On a query made by this court to the learned counsel appearing for the parties, it is

informed that all the claim petitions are now ready for hearing before the Tribunal. Having regard to the defence raised by the appellant/insurance company and further considering the fact that the original claim petitions are now posted for hearing, it appears to me that it would be in the interest of both the parties, i.e. claimants as well as insurance company to proceed with the hearing of the claim petitions and to agitate the grounds raised by them in their respective submissions before the Tribunal.

5) It is submitted that though the appellant – insurance company has deposited the amount of NFL compensation in this court, interim stay has been granted by this court vide order passed on 3rd August, 2015 to the execution of the Award under Section 140 of the MV Act. The amount deposited is thus lying with this court and has not been withdrawn by the claimants.

6) In the light of the submissions made as above, I am inclined to pass the following order, which according to me, would meet the ends of justice.

ORDER

i) The present appeals are disposed of in terms of interim order passed by this court on 3rd August, 2015;

ii) The amount deposited by the insurance company be transmitted to the concerned Tribunal;

iii) The Tribunal shall retain the said amount till the proceedings under Section 166 of the MV Act are decided. The Tribunal shall endeavour to dispose of the proceedings as expeditiously as possible and preferably within six months. The Tribunal shall pass further orders with regard to disbursement of the amount under Section 140 of the MV Act after judgment and Award is passed under section 166 of the MV Act in tune

with the said order;

iv) The appeals stand allowed and disposed of in the aforesaid terms. Pending Civil Applications, if any, stand disposed of.

(P.R.BORA)
JUDGE

bdv/