

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.1478 OF 2013

The National Insurance Company Ltd .. Applicant
Through its Divisional Manager,
299, Baliram, Peth, Jalgaon,
Jalgaon

Versus

Pandurang Valaji Patil and others .. Respondent

Mr.S.N.Pagare, Advocate for the applicants
Mr.M.M.Bhokarika, Advocate for respondent No.1

**CORAM : A.V.NIRGUDE, J
DATED : 22.08.2016**

P.C. :-

1. This appeal is pending since last three years and so by consent of the learned counsel for the parties I took it for final hearing. Perused the award dated 18.08.2010 which awarded meager amount of Rs.1,00,000/- to respondent No.1 who sustained injury in motor accident. The appellant Insurance company through out took a defence that there is a breach of insurance policy conditions. Insurance policy could not allow passengers in goods carriage which met with an accident. No doubt the defence is quite formidable and could have been proved by producing the policy documents. But the learned Judge of the Lower Court granted the claim for sum of

Rs.1,00,000/- including N.F.L. Some amount is already received by respondent and some amount is kept deposited in this Court.

2. The question that arises before me is whether this appeal deserves disposal on merits. The answer is in negative. As said above the appeal raised an arguable issue in the light of the facts that the Insurer allowed the vehicle which was not meant for carrying passengers-respondent No.1 on the fateful day. However, in the facts and circumstances of the case it cannot be denied that respondent No.1 admittedly sustained injury and was required to be hospitalized etc. He is a labourer and has sustained 25% of the permanent disability. In such situation award of Rs.1,00,000/- appears to me a reasonable compensation and therefore I am not inclined to disturb the finding of the Lower Court.

3. The amount deposited in this Court shall be handed over to respondent No.1.

4. The first appeal stands dismissed.

[A.V.NIRGUDE, J.]