

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

**FIRST APPEAL NO. 777 OF 2013
WITH
CIVIL APPLICATION NO. 2100 OF 2013**

United India Insurance Co. Ltd. ... Appellant

vs.

Smt. Farzana Ashraf Shaikh & ors. ... Respondents

Mr. Sachin H. Kankal i/by Mr. K. N. Kandekar, Advocate for the appellant.

Mr. T. J. Mendon, Advocate for respondents no.1 to 3.

Coram : Smt. R. P. SondurBaldota, J.

Date : 6th April, 2016.

P.C.

1. This appeal is directed against the order dated 3rd August, 2012, by which the Additional Commissioner for Workman's Compensation and Judge, 8th Labour Court, Mumbai awarded compensation of Rs.4,30,560/- to respondents no.1 to 3 on account of a death in a motor vehicle accident. The deceased was an employee of respondent no.4. The appellant is the Insurance Company. It contends that there was no evidence before the trial Court as regards the relationship of employer and employee between the deceased and respondent no.4.

2. Perusal of the record shows that by the order dated 17th April, 2015 the appeal is dismissed against respondent no.4 as no steps were taken by the appellant for service of notice upon him. Since respondent no.4 is the owner of the vehicle in question and also primarily liable and his liability is indemnified by the appellant Insurance Company the appeal as on today cannot be maintained against the claimants alone. Hence, the first appeal is dismissed.

3. In view of the dismissal of the appeal, Civil Application No. 2100 of 2013 does not survive. The same is, accordingly, disposed off.

[Smt. R. P. SondurBaldota, J.]