

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

**FIRST APPEAL NO.867 OF 2012
WITH
CIVIL APPLICATION NO.2045 OF 2011**

The New India Assurance Co. Ltd. Appellants

vs.

Prakash Deorao Yadav & Anr. Respondents

Ms. Poonam Mittal, Advocate for the Appellants.
Mr. T.J. Mendon, Advocate for respondents no. 1.

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

Date : 26th April, 2016

P.C.

1 This appeal by the Insurance Company was dismissed against respondent no.2 on 16th April, 2012 as the Civil Application for condonation of delay in filing the First Appeal stood dismissed against him. Ms. Mittal, the learned advocate for the appellant states that thereafter the appellant had filed an application for restoration of the First Appeal against respondent no.2, which application has also been dismissed. The appellant could not have filed an application for restoration of the First Appeal against respondent no.2, since

the application for condonation of delay in filing the appeal against respondent no.2 was itself dismissed. Respondent no.2 being the owner of the offending vehicle and since the appeal is essentially directed against respondent no.2 on the ground that the vehicle in question was not insured at the relevant time, the appeal against respondent no.1 alone cannot survive. Hence, the First Appeal is dismissed.

2 The statutory deposit of Rs.25,000/- be transferred to the Tribunal, alongwith the interest accrued thereon.

3 In view of dismissal of the First Appeal, the Civil Application does not survive. The same is accordingly disposed off.

(Smt. R.P. SondurBaldota, J)