

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (CAF) No.2212 of 2014

In

First Appeal Stamp No.8768 of 2014

(Iffco Tokio General Insurance Co. Ltd., through its Authorised Signatories
v. Smt. Lalita wd/o Deorao Girsavle and others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's order

Court's or Judge's orders

Shri A.J. Pophaly, Advocate for Applicant.

Shri V.S. Giramkar, Advocate for Non-Applicant/Respondent Nos.3
and 4.

Coram : R.K. Deshpande, J.

Date : 5th January, 2016

Civil Application (CAF) No.2212 of 2014 :

This application seeks condonation of delay of 20 days caused in filing an appeal.

The notice was issued to the non-applicants. All the non-applicants are served. However, no reply is filed by them. After going through the averments made in the application, which remain uncontroverted, I am satisfied that a sufficient cause is made out for condonation of delay.

Hence, the delay caused is condoned.

The civil application is disposed of.

First Appeal Stamp No.8768 of 2014 :

This is a case of head-on collision between two vehicles – one Minidoor, bearing registration No.MH-29/4145, and another Mahindra Pickup Van, bearing registration No.MH-29/M-1439. The deceased was the occupant in the Minidoor. The present appeal is preferred by the insurer of Mahindra Pickup Van.

Shri Pophaly, the learned counsel appearing for the appellant-Insurance Company, has raised the issue of contributory negligence.

On 27-8-2014, this Court had passed an order as under :

“ Issue notices to the respondents for final disposal of the appeal, returnable on 12.11.2014.

If the delay is condoned, the matter shall be heard on merits without issuing fresh notices to the respondents.

Shri Pophaly, the learned counsel for the appellant submits that the entire decretal amount shall be deposited in this Court within a period of four weeks from today.

In view of this, there shall be stay to the award passed by the Motor Accident Claims Tribunal, Kelapur, on 11.10.2013.

If the amount is not deposited within the stipulated period, the interim order shall stand vacated without reference to the Court.”

All the respondents are served on the application for condonation of delay as well as on the merits of the matter. It is, therefore, not necessary for this Court to issue any fresh notices to the respondents and the matter can be finally disposed of.

Hence, Admit.

Shri V.S. Giramkar, the learned counsel, waives service of notice for the respondent Nos.3 and 4.

None appears for the respondent Nos.1 and 2, in spite of service of notice.

In view of the grounds of challenge raised, it is not necessary for this Court to call for the record and proceedings.

Put up the matter for final hearing on 12-1-2016.

Judge.