

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

Civil Application [CAF]No.2449 of 2014

in

First Appeal St. No.8901 of 2014

(The New India Assurance Co. Ltd.

vs.

Smt. Lata wd/o Rajesh Chopne and others)

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

Shri Gautam Chatterjee, Advocate for the Applicant/Appellant.

Shri V.D. Darne, Advocate for the Respondent No.1.

CORAM : R.K. DESHPANDE, J.

DATE : JANUARY 11, 2016.

Respondent Nos.1 and 2 are served with notice of this civil application. They are represented by learned Counsel Shri V.D. Darne. The appeal is dismissed against the other respondents.

The Tribunal has held the owner and the driver of the vehicle liable to pay the amount of compensation of Rs.10,40,000/- along with interest thereon at the rate of 9% per annum. The Insurance Company has neither been held liable to pay the amount of compensation on merits of the matter, but it has, in fact, been exonerated on the ground that breach of policy has been established. The driver driving the vehicle was not holding a valid and effective driving licence on the date of occurrence of the accident. In spite of this, the order of pay and recovery has been passed.

In view of this factual position, I do not find that respondent Nos.3 and 4 continue to be necessary party to the appeal and the matter can proceed further even if it is

dismissed against respondent Nos.3 and 4.

In view of above and for the reasons stated in the application, I am satisfied that sufficient cause is made out for condonation of seven days delay caused in filing an appeal. Hence, the delay caused is condoned.

The application is allowed and disposed of as such.

First Appeal St. No.8901/2014 :

Heard the learned Counsel appearing for the parties on merits of the matter.

Issue notice for final disposal of the matter to the respondents, returnable on 7th of March, 2016.

Shri Darne, the learned Counsel for respondent Nos.1 and 2 waives service of notice.

Call for record and proceedings.

Civil Application [CAF] No.2450/2014 :

The entire decretal amount has already been deposited.

In view of this, the interim order passed by this Court shall continue to operate pending the decision of appeal.

The civil application stands disposed of.

JUDGE