

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4100 OF 2015
IN
FIRST APPEAL NO. 724 OF 2012

Smt. Sulochana S. Mulajkar & Ors. .. Applicants
vs.
Shri Iqbal Hussain Abid Hussain & Ors. .. Respondents

Roshan Tanna for Applicants / Appellants.
Mr. C. M. Lokesh i/b. G. S. Hegde & Associates for Respondent
No.2.
D. Shalini Shankar for Respondent No. 4.

CORAM : M. S. SONAK, J.
DATE : 06 MARCH 2017

P.C :

1] Civil application no. 4100 of 2015 has been dismissed by the Registrar's (Judicial-II) Order dated 20 April 2016. This is because the learned Registrar was of the opinion that the newspaper in which substituted service by way of publication was proposed by the applicants was not a fit and proper newspaper.

2] Learned counsel for the applicants points out that the respondent nos. 1 and 2, who are the owners of the two motor vehicles involved in the accident were served before the MACT by way of publication in the very same newspaper. He points out that despite such service, the said respondents did not take part in the proceedings before the MACT. The applicants point out that the

claimants are the widow and children of the deceased who died in the accident. In entirety, compensation of Rs.1,95,000/- has been awarded by the impugned award.

3] There is undoubtedly, laxity on the part of the applicants in taking steps to effect service upon respondent nos. 1 and 3. However, taking the aforesaid circumstances into consideration, the order dated 20 April 2016, dismissing civil application no. 4100 of 2015 is recalled. The civil application is restored.

4] Since, the respondent nos. 1 and 3 were already served earlier before the MACT by way of publication, but chose not to attend the proceedings before the MACT, no useful purpose would be served by once again requiring the applicants to expend amounts towards publication in newspaper. Instead, the applicants are permitted to serve respondent nos. 1 and 3 by way of pasting of notice on the last known address.

5] Such service to be completed within a period of four weeks from today. The returnable date in the matter shall be 18 April 2017. The applicants to file affidavit of service.

6] Civil application no. 4100 of 2015 is disposed of in the aforesaid terms.

7] Learned counsel for the MSRTC (respondent no. 2) and the insurance company (respondent no. 4) are right in their submission that this is a fit case for award of some costs in their favour, since, the matter has come up almost on 25 occasions. However, taking into consideration the plight of the applicants, no costs are imposed on this occasion.

(M. S. SONAK, J.)

Chandka