

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 218 OF 2009
AND
CIVIL APPLICATION NO. 219 OF 2009
IN
FIRST APPEAL (ST) NO. 29101 OF 2008

The Oriental Insurance Co. Ltd. .. Appellant
vs.
Smt. Lata Suresh Chugh and ors. .. Respondents

Mr. J. S. Chandnani for the Appellant.

CORAM : M. S. SONAK, J.
DATE : 7 FEBRUARY 2017.

P.C. :-

1] Today, when this matter is called out Mr. Chandnani, learned counsel for the appellant, states that his brief is not traceable and therefore, he is not in a position to make any submissions in this matter. Normally, in a situation of this type, the counsel will always accommodate. However, in accommodation, might be extremely oppressive to the respondents/claimants, who have, from the year 2009 onwards, been deprived of compensation awarded to them by the Motor Accident Claims Tribunal (MACT).

2] On 21 November 2009, this court, granted the ad-interim relief staying the execution of the award. From 2009 till date, despite grant of several opportunities, no service has been effected upon the concerned respondents. From time to time, opportunity was granted to the appellant to take steps for effecting service upon the unserved respondents. This is clear from the various orders recorded in the farad-sheet. On 20 October 2010, it was made clear

that if no steps are taken, the civil application seeking condonation of delay will stand dismissed for non-prosecution. In pursuance of such self operative order, the civil application stands dismissed against some of the respondents. Till today, however, the matter could not be taken up basically because no proper steps were taken to effect service upon the unserved respondents. As a result of this, the applicant-appellant continued to enjoy the benefits of the ad-interim order of the respondents-claimants, despite, the order of MACT being in their favour have been deprived of the compensation awarded to them. To grant any further time, it will not be fair to the respondents-claimants, who, for no fault on their part have been not even served, so that, they could have properly applied for vacation of the ad-interim order or at least leave to withdraw the compensation amount.

3] The civil application seeking condonation of delay and consequently, the appeal and civil application seeking stay are dismissed for non-prosecution. The applicant to pay costs of Rs.5000/- to the respondents-claimants. Such costs to be deposited before the concerned MACT within four weeks from today. The amounts deposited in this court to be transmitted to the concerned MACT within a period of four weeks from today. The MACT concerned shall issue notice to the claimants/respondents so that the respondents-claimants are in a position to withdraw the amount deposited by the applicant-appellant. Such notice to be issued within four weeks from today.

4] The Registry to intimate the concerned MACT about making of the present order.

(M. S. SONAK, J.)

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