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

CIVIL APPLICATION (CAF) NO.3027 OF 2015
IN
FIRST APPEAL ST.NO.14920 OF 2015

The New India Assurance Company Limited, through Manager, Nagpur
..vs..
Pramod s/o Ramkrushna Ghodeshwar and ors

....

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

....

Ms Anita Mategaonkar, Counsel for the applicant.
Shri V.G. Wankhede, Counsel for non-applicant Nos.3 and 4.

CORAM : N.W. SAMBRE, J.
DATED : APRIL 12, 2017.

Heard learned counsel for the parties.

This application is taken out by the New India Assurance Company Limited seeking condonation of delay of 7 days caused in filing first appeal.

For the reasons disclosed therein, delay caused is condoned. The civil application stands disposed of.

FIRST APPEAL ST.NO.14920 OF 2015

By consent of learned counsel appearing

for the parties, appeal is taken up for final hearing.

Heard learned counsel for the parties.

Learned counsel for the appellant has made twofold submissions that in Form-AA, which is produced on record, date of accident is not mentioned or is conspicuously absent. As such, it is difficult to accept version of claimant that he is entitled for compensation pursuant to involvement of vehicles in accident in question. Apart from above, on merit Award of the Motor Accident Claims Tribunal is sought to be assailed on the ground that material considered for awarding compensation is without any basis.

The Tribunal framed issues at Exhibit 16 and proceeded to analyze evidence brought before it. The Tribunal noticed that in all there are three vehicles which are involved in accident of which one of vehicles is owned by respondent No.4 Maharashtra State Road Transport Corporation. The Tribunal then evaluated evidence brought before it including that of disability certificate Exhibit 43 which demonstrates that claimant has suffered disability to the extent of more than 40%. The Tribunal has taken into account medical bills Exhibit 41, medial certificate, and total expenses incurred for such medical treatment.

.....3/-

Though learned counsel for the Insurance Company has tried to canvass that an issue as regards details of policy and proof thereof is not considered by the Tribunal, what could be noticed is, the Tribunal has considered case of composite negligence and has proceeded to award compensation fastening liability on the Insurance Company to the extent of 50%.

Apart from above, learned counsel for the appellant/Insurance Company has invited my attention to Clause A of special pleadings objecting claim so as to canvass that the Insurance Company has disputed existence of policy, as on record policy details were not furnished.

If above referred submissions are to be appreciated, there is no specific averment by the Insurance Company in its written statement that no policy was issued by the Insurance Company or the vehicle was not insured with it. What is sought to be canvassed by the Insurance Company is, details of policy are not placed on record.

In my opinion, said vague submissions are ignored by the Tribunal. In the above referred background, though reliance is placed by the Insurance Company on the judgment of the Honourable Apex Court in the case of Oriental Insurance Company Limited ..vs.. Premlata Shukla

<u>and others</u>, reported at <u>2007 ACJ 1928</u>, it is of hardly any assistance. No case for interference is made out. The appeal fails and is dismissed as such.

<u>JUDGE</u>

!! BRW !!