

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

CAF NO.3416/2017 IN FIRST APPEAL NO.1414/2008

[Devendra s/o Shivshankar Tiwari .vs. The National Insurance Company Limited and one]

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

Court's or Judge's orders

CORAM : KUM. INDIRA JAIN, J.

DATED : SEPTEMBER 06, 2017.

Heard Shri S.G. Joshi, learned counsel for applicant-appellant and Shri N.H. Shams, learned counsel for respondent no.1. Perused order dated 13.3.2012 passed in C.A. No.3017/2008. By the said order, amendment sought by appellant was allowed and subsequent development as per the proposed amendment came to be brought on record.

By this application, appellant seeks remand of the matter to the Motor Accident Claims Tribunal, Akola for adducing evidence in view of the amendment carried out on 15.3.2012. The application is opposed by the learned counsel for respondent no.1. The submission is that after five years application has been moved and the insurance company will be unnecessarily saddled with interest for no fault in case tribunal enhances the compensation.

The learned counsel for appellant submits that appellant undertakes to waive interest from 15.3.2012 to 11.8.2017 that is from the date of carrying out amendment till the date of filing of this application.

In view of the above, application is allowed. Matter is remanded to the Motor Accident Claims Tribunal, Akola for deciding the same afresh in view of the subsequent events brought on record by way of amendment.

In case the tribunal holds that appellant is entitled for enhancement, appellant shall not be entitled to interest from 15.3.2012 to 11.8.2017 on the enhanced amount.

Civil Application stands disposed of in the above terms.

FIRST APPEAL NO.1414/2008

In view of disposal of Civil Application No.3416/2017, First Appeal No.1414/2008 does not survive, hence disposed of.

No costs.

JUDGE