

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CAF NO.4037/2016 IN FIRST APPEAL (ST) NO.16234/2016
 (THE ORIENTAL INSURANCE CO.LTD., AMRAVATI **VERSUS** SMT. BHARTI SUBODH @ BANDU
 BHAMODKAR & OTHERS)

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

Court's or Judge's orders

 Shri Joharapurkar, Counsel for respondent Nos.1 to 4.

CORAM : S.B. SHUKRE, J.
DATE : NOVEMBER 10, 2017.

Heard learned counsel Shri Joharapurkar for the claimants. Nobody is present on behalf of the insurance company.

There is a specific order made by this Court sounding an alert for insurance company on 12th October, 2017. It was made known that the application was pending for quite some time and the time had arrived for its disposal finally and as nobody was present on behalf of the insurance company, by way of last chance, two weeks time was granted. It was also made clear that if the appellant chose to remain absent, this Court would proceed in the matter in an appropriate manner. The alert sounded by this Court obviously has failed to move the insurance company in any manner. It is still reeling under an impression that it need not care for its own interest or for that matter, of anybody.

The insurance company officials may not have any concern about the interest of their institution, but this Court does have, because ultimately it is an institution, where the people's money is also parked. Therefore, I have carefully gone through the impugned judgment and order. It is seen from the impugned judgment and order that there is a finding recorded by the tribunal that although there was composite negligence on the part of the drivers of both the vehicles involved in the accident, one taxi and one truck, the insurance company would be jointly and severally liable to pay the compensation along with the insured, the finding appears to be prima facie contradictory because, in the same judgment and order, there is another finding that this insurance company was not the insurer of the taxi involved in the accident. Therefore, it may not be appropriate for this Court to allow the application in its entirety.

In the result, the application is partly allowed.

The claimants are permitted to withdraw amount of Rs.3,00,000/- from out of the amount deposited in this Court.

The registry is also directed to invest an amount of Rs.3,00,000/- with any nationalized bank in the name of original petitioner Nos.2 to 4, who are respondent Nos.2 to 4 in the present appeal, for a period of one year, which shall be subject to the orders of this

Court and to renew the same from time to time till final disposal of the appeal.

The remaining amount may also be invested in any nationalized bank in fixed deposit account till final disposal of the appeal as per rules.

Application stands disposed of.

Copy of this order be sent to the Chairman-cum-Managing Director of the appellant by R.P.A.D. for taking necessary corrective steps.

JUDGE

SHRIPAD