

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.13130 OF 2018
IN

FIRST APPEAL NO.1038 OF 2002

ANNAPURNA BASWARAJ TUPPAT AND ORS
VERSUS
JASPAL BIRBALSING CHOUDHARY AND ORS

Advocate for Appellants : Mr.Sachin S.Deshmukh,

CORAM : P.R. BORA, J.

DATED : 22nd OCTOBER, 2018.

PER COURT:-

1. CA No.13130 of 2018 is not on Board. Taken on Board. Heard Shri Deshmukh, learned counsel for applicants.

2. The present application is filed seeking restoration of First Appeal No.1038/2002, which has been dismissed against Respondent Nos. 1 and 2. It is contended that even before the Motor Accident Claims Tribunal, Respondent Nos.1 and 2 were proceeded exparte. It is further contended that the said respondents could not be served in the appeal also on the given address. In the meanwhile, since the counsel who was appearing for the appellants, was appointed as Judicial Officer, no steps could be taken to serve Respondent Nos.1 and 2. The appeal, therefore, has been dismissed

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against the said respondents. The said order, dismissing the appeal against respondent Nos. 1 and 2, was also not noticed by the applicants for quite a long period. The learned counsel submitted that even otherwise, the vehicle was insured and the insurance policy was in force. It is further contended that the application is for seeking enhancement in the amount of compensation. In the circumstances, the appeal is sought to be restored against Respondent Nos. 1 and 2.

3. After having considered the submissions, I am inclined to allow the present application for the reasons stated in the application. Hence, the following order, -

ORDER

i. The appeal stands restored against Respondent Nos. 1 and 2;

ii. The applicants are permitted to serve respondent Nos. 1 and 2 by way of paper publication, in a widely circulated newspaper of the area, wherein the respondents are stated to be residing. Notice is made returnable on 21st December, 2018.

iii. It be indicated in the notice that the appeal will be disposed of finally at admission

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stage.

iv. Learned counsel for the applicants shall furnish the particulars as about the newspaper in which the notices are intended to be published, in the Registry of this Court within three weeks.

v. Civil Application stands disposed of.

(P.R. BORA)
JUDGE

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