

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

CIVIL APPLICATION (CAF) NO.2620 OF 2017

AND

FIRST APPEAL ST. NO. 9146 OF 2017

(NATIONAL INSURANCE CO. LTD.....VS.. SUNEET VISHWANATH KAPOOR & OTH.)

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

Court's or Judge's orders

Ms Sujata Kasbekar, Advocate for Applicant/Appellant.
Shri H.S.Barapatre, Adv.H/f. Shri P.A.Abhyankar, Adv.for Resp. No.1.

CORAM : Z.A.HAQ, J.

DATED : APRIL 11, 2018.

CIVIL APPLN.NO.2620/2017.

The Insurance Company has filed appeal to challenge the award passed by the Motor Accident Claims Tribunal by which the claim of the respondent No.1 for compensation is upheld. There is delay of 1304 days in filing the appeal.

Though the explanation given by the applicant/ appellant in the application is not sufficient to condone the inordinate delay, considering the submission made on behalf of the applicant/ appellant that First Appeal No.200 of 2015 filed by the respondent No.4-Prasanna Tours and Travels challenging the same award is admitted, the delay in filing the appeal is condoned.

The civil application is **allowed** accordingly. No costs.

FIRST APPEAL ST. NO.9146/2017.

Taken up for hearing on admission. The submission on behalf of the appellant is that it is not liable to pay the amount of compensation to the respondent No.1/claimant as there was breach of policy as the vehicle involved in the accident was owned by the respondent No.2 and handed over to the respondent No.4 for operating it.

ADMIT.

Shri P.A. Abhyankar, advocate waives notice for the respondent No.1.

The respondent Nos.2 to 4 are served with notice of Civil Application No.2620 of 2017 and are aware about pendency of these proceedings. Fresh notice to the respondent Nos. 2 to 4 is not required. The learned advocate for the appellant shall send copy of this order to the respondent Nos. 2 to 4 on their registered addresses by Speed Post Acknowledgment Due and file affidavit of compliance on record.

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CIVIL APPLN.NO.2621/2017.

The appellant has deposited the amount with the Registry of this Court. The interim order granted on 29th June, 2017 shall continue till disposal of the appeal.

The civil application is **allowed** accordingly.

CIVIL APPLN.NO. 1823/2017

Considering the points raised by the appellant/ Insurance Company it is clear that the dispute is between the Insurance Company, owner of the vehicle and the respondent No.4.

The respondent No.1/Claimant cannot be denied benefit of the award pending dispute amongst the appellant, respondent No.2 and respondent No.4. The amount deposited by the appellant along with interest on it, if any, be given to the respondent No.1-claimant, unconditionally.

The order passed by this Court on 15th January, 2018 stands modified accordingly.

The civil application is **disposed** in the above terms. No costs.

JUDGE

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