

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

CIVIL APPLICATION (CAF) NO.1839 OF 2017
AND

FIRST APPEAL ST. NO.17020 OF 2016

(BAJAJ ALIANZ GENERAL INSURANCE CO.LTD....VS.. PRAFUL PRABHAKAR BHOYAR & OTH.)

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

Court's or Judge's orders

Shri D.N.Kukday, Advocate for Applicant/Appellant.
None for the non-applicant/ respondent.

CORAM : Z.A.HAQ, J.

DATED : APRIL 13, 2018.

CIVIL APPLN.NO. 1939/2017.

Accepting the explanation given in the application, delay of 96 days in filing the appeal is condoned.

The application is allowed accordingly. No costs.

FIRST APPEAL ST.NO.17020/2016.

None for the respondent.

The appeal is listed for orders with office note that the notice issued to the respondent No.2 (driver of the vehicle) is received back unserved as the address on which the notice was sent is not correct.

Shri D.N.Kukday, advocate for the appellant/ Insurance Company has pointed out that the appeal is filed against the interim award passed by the Tribunal under Section 140 of the Motor Vehicles Act, 1988.

Considering the nature of challenge the appeal is taken up for hearing.

Heard Shri D.N.Kukday, advocate for the appellant.

The Tribunal has allowed the application filed by the claimant under Section 140 of the Motor Vehicles Act, 1988 observing that *prima-facie* the claimant has been able to establish that the vehicle involved in the accident was insured with the appellant/Insurance Company on the date of the accident. According to the Insurance Company, the claimant relies on the cover note which shows that the insurance was valid till midnight of 22nd October, 2013 (accident having taken place on 16th March, 2013), however, according to the record produced by the Insurance Company (Exh.37), before the Tribunal, the insurance policy was valid till 22nd September, 2012.

The Tribunal has recorded that at this stage it would not be possible to examine the disputed question of facts.

I find that the approach of the Tribunal is proper and cannot be faulted with.

Clarifying that the conclusions of the Tribunal will not affect adjudication of the matter on merits, the appeal is **disposed of**. No costs.

JUDGE