

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

C.A.F. NO.4352/2017

IN

FIRST APPEAL STAMP NO.20726/2017

The Bajaj Allianz General Insurance Company Ltd., Nagpur

..Vs..

Ashok Pundalikrao Thakare and others

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

Court's or Judge's orders

Mrs. Mrunal Naik, Advocate for the applicant / appellant.
Ms. M.H. Pathade, Advocate for respondents.

CORAM : Z.A. HAQ, J.

DATE : 31.8.2018.

1. Though the prayer for condonation of delay is opposed, accepting the explanation given in the application, delay of 793 days in filing the appeal is condoned. The civil application is **allowed** accordingly. No costs.

FIRST APPEAL STAMP NO.20726/2017

2. This appeal is filed by the Insurance Company to challenge the order passed by the Motor Accident Claims Tribunal under Section 140 of the Motor Vehicles Act, 1988 upholding the claim of the claimants for amount receivable by them.

3. The contention of the appellant / insurance company is that the deceased was riding the motor cycle when the accident in question took place and in the facts of the case, it cannot be said that the deceased was a third party for the purposes of claim under the Motor

Vehicles Act.

4. As the point raised by the appellant / insurance company will have to be adjudicated by the Tribunal during trial of the claim petition, in my view, it would not be appropriate to delve into merits of the matter, however, in my view, following order would sub-serve the ends of justice:

5. The order passed by the Tribunal directing the respondents before the Tribunal to pay / deposit the amount of Rs.50,000/- (Rs. Fifty Thousand) towards no fault liability is maintained.

6. Accepting the statement made by the Advocate for the appellant / insurance company that amount is already deposited with the Registry of this Court, it is directed that the amount be transmitted to the Motor Accident Claims Tribunal, Nagpur. The Tribunal shall not disburse the amount and it be kept in fixed deposit in nationalised bank till the disposal of the claim petition. The disbursement of the amount shall be as per the final order which would be passed by the Tribunal in the claim petition. The appeal is **disposed** in the above terms. In the circumstances, the parties to bear their own costs.

JUDGE