

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

C.A.F. NO. 2837/2018 IN FIRST APPEAL NO. 1088/2016

(DNYANESHWAR SHANKARRAO MANOHARE THR. VARSHA DNYANESHWAR MANOHARE
...VERSUS... MAHESHKUMAR LAXMANPRASAD JHA & ANOTHER)

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

Court's or Judge's orders

Shri P.R. Agrawal, counsel for the applicant/appellant.
Shri V.P. Maldhure, counsel for the R-2.

CORAM : NITIN W. SAMBRE, J.

DATE : NOVEMBER 26, 2018.

The claim raised in the application is objected by the learned counsel for the respondent no.2-Insurance Company on the ground that the judgment impugned in the appeal is based on the disability certificate which was already produced and proved.

Shri P.R. Agrawal, the learned counsel for the applicant, submits that the disability certificate that is produced on record is based on the subsequent examination of the appellant wherein the degree of disability is raised to 85% based on which the compensation is sought to be enhanced by the applicant/appellant.

In my opinion, the prayer of the applicant is within the domain of Order XLI Rule 27 of the Code of Civil Procedure, 1908 as the applicant had no occasion to produce the certificate when the evidence in Claim Petition was recorded.

The learned counsel for the appellant assures this Court that he shall file all the relevant papers which are necessary for final hearing of the appeal within a period of four weeks from today.

Statement is accepted as an undertaking. As such, the application is allowed in terms of prayer clauses (i) and (ii) and disposed of.

(NITIN W. SAMBRE, J.)