

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

**CAF NO. 2000/2016**  
**IN**  
**FIRST APPEAL (ST.) NO. 25255/2015**

Karuna Wd/o Shishupal Gajbhiye & anr.

..VS..

Yogesh S/o Kishanlal Meshram & anr.

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

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Shri A. Hussain, Advocate for the applicant/appellant(s)  
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**CORAM : Z.A.HAQ, J.**  
**DATED : 17/09/2018**

Accepting the explanation given in the application and considering the facts of the case, the delay of 256 days in filing the appeal is condoned.

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

**FIRST APPEAL (ST.) NO. 25255/2015**

Taken up for hearing on admission.

Issue notice to the respondents, returnable on 17/10/2018.

Ms. M.H. Ukal, Advocate holding for Ms. G. Venkatraman, Advocate waives notice for the respondent no. 2.

The respondent no. 1 is already served with notice published in the newspaper and is aware about pendency of this proceedings. Fresh notice to the respondent no. 1 is not required.

The parties are put to notice that the appeal would be taken up for final hearing on 17/10/2018.

The learned advocate for the claimants states that the Tribunal has saddled the liability to pay the amount of compensation on the owner of the vehicle and the Insurance Company is absolved as according to the Tribunal, the driver of the vehicle involved in the accident was having the license to drive a three wheeler and the vehicle in the accident is a four wheeler. Relying the judgment given in the case of Mukund Dewangan vs. Oriental Insurance Company Ltd. reported in 2017 (7) SCALE at page 731, it is submitted that both the vehicles which were involved in the accident fall under the category of light motor vehicle and therefore the liability should have been fastened on the Insurance Company.

In these facts, there is no need to call R. & P.

The advocate for the appellants shall send copy of this order to the respondent no. 1 by Registered Post/Speed Post Acknowledgment Due.

**JUDGE**

*Ansari*