

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

946 CIVIL APPLICATION NO.14527 OF 2019
IN RC/658/2019

SHRIRAM GENERAL INSURANCE CO. LTD., THROUGH ITS BRANCH MANAGER,
AURANGABAD
VERSUS
NAGRAJ BABURAO MAHALE AND OTHERS

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Advocate for Applicant : Chapalgaonkar S.G.

Advocate for Respondent nos.1 & 2 : Shri Amol S. Sawant

CORAM: V.L. ACHLIYA, J.

DATE: 13.12.2019

PER COURT :

1] This civil application is taken out for restoration of appeal dismissed on account of failure to comply with the conditional order passed on 3.8.2018. It is submitted that inadvertently, compliance remained to be made which resulted into dismissal of the matter.

2] It is submitted that the applicant - appellant has good case to succeed in the appeal. The applicant - appellant has taken specific plea that the vehicle alleged to be involved in accident with appellant - insurance company. The document produced in Court is a false document. The Tribunal has not considered the plea raised by appellant - insurance company and passed cryptic judgment. If

the appeal is not restored, it will cause serious prejudice to the appellant.

3] On the other hand, learned counsel for the respondent nos.1 & 2 has opposed restoration of the appeal and submits that the Tribunal has delivered the judgment after due scrutiny of evidence. It is submitted that after dismissal of appeal, the Court has permitted the respondent nos.1 & 2 to withdraw the amount deposited by the insurance company.

4] On due consideration of the submissions advanced, I am of the view that the appeal deserves to be restored. Failure to restore appeal would result into serious consequences. The appeal was dismissed only for the reason that the appellant has failed to take steps to serve the respondent no.3 - the owner of the vehicle. Learned counsel for the applicant - appellant submits that necessary steps shall be taken if appeal is restored. I am, therefore, inclined to allow the application.] Accordingly, the application is allowed in terms of prayer clause (B). Appeal is restored. List the appeal for admission on 21.1.2020. In view of restoration of appeal, notice be issued to respondent no.3 returnable on 21.1.2020.

5] In addition to service through process of Court, the applicant - appellant is permitted to serve the respondent no.3 by RPAD or

other legally permissible mode and file affidavit of service on next date.

6] Shri Amol S. Sawant, Advocate waives service of notice for the respondent nos.1 & 2 in the appeal.

7] S.O. to 21.1.2020.

(V.L. ACHLIYA, J.)