

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

901 REVIEW APPLICATION (CIVIL) NO.17 OF 2019
IN FA/4/2011

MANDUBAI ANKUSH SHINDE AND ANR
VERSUS
UNITED INDIA INSURANCE COMPANY LTD DIVNL.OFFICE
AURANGABAD THROUGH ITS DIVNL.MANA

...
Advocate for Applicants : Mr.Deshmukh Shivraj V.
Advocate for Respondent No. 1 : Mr. A. G. Kanade
...

CORAM : SUNIL K.KOTWAL, J.

DATE : JANUARY 18, 2019

O R D E R :

This Review Application is filed by the Original Claimants for issuing directions to the Insurance Company, to first pay the compensation and later on recover it from the owner of the offending vehicle.

2. The learned counsel for applicants has drawn my attention to the recent judgment of the Apex Court in "Pappu and Others vs Vinod Kumar Lamba and another" [2018 (6) Mh.L.J. 760] and "Shamanna and Another vs

Divisional Manager Oriental Insurance Company Limited and Others" [2018 DGLS (SC) 742] wherein, the direction was given to the Insurance Company to first pay the compensation to the Claimants and later on recover it from the owner of the offending vehicle.

2. Heard learned counsel for the Insurance Company, who vehemently opposed this Review Application, on the ground that no error on the face of record is made. Explanation to Order XLVII Rule 1 of the Code of Civil Procedure, 1908 reads as under :

"[Explanation.-The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]"

3. Thus, after going through the Explanation to Order XLVII Rule 1 of the Code of Civil Procedure, 1908, it becomes clear that only because the Higher Court has taken the contrary view, than the view

taken by this Court, the order cannot be reviewed.

4. After going through the judgment and reasons, I do not find any error on the face of record. If the applicants have any grievance regarding the view taken by this Court, they are at liberty to approach to the Apex Court.

5. In the result, this application is devoid of merits, and hence rejected.

[SUNIL K.KOTWAL, J.]

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