

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 3354 OF 2014
IN
FIRST APPEAL (ST.) NO. 6786 OF 2014**

The New India Assurance Co. Ltd.

..... Applicant.

Vs.

Subhan Mohd. Yusuf Parkar

..... Respondent.

Devendranath Joshi for the Applicant.

.....

.....

**CORAM : K.K.TATED, J.
DATED : AUGUST 23, 2019**

P.C.

- 1 Heard Learned Counsel for the Applicant.
2. The Learned Counsel for the Applicant submits that, by this Civil Application they are seeking to set aside the order dated 14th February, 2014 passed by the Learned Registrar (Judicial-II) by which Civil Application No. 1280 of 2013 with First Appeal Stamp No. 6786 of 2013 stood dismissed against Respondent No.1.
3. The Learned Counsel for the Applicant submits that, by this First Appeal they are challenging the Judgment and award dated 2nd April, 2012 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 3101 of 2003

holding that the Respondent/Original Claimant is entitled to compensation of Rs. 8,77,241/- with accrued interest @ 7.5% p.a.

4. The Learned Counsel for the Applicant submits that, it remained on their part to take appropriate steps immediately for removal of office objections i.e. to take appropriate steps against Respondent No.1. He submits that they have tried to find out the present correct address of Respondent No.1 but nobody is ready to inform them the present correct address of Respondent No.1. Hence, by this Civil Application, the Applicant is seeking permission to serve Respondent No.1 by substituted service as per Order 5 Rule 20 of the Civil Procedure Code.

5. Considering the submissions made by the Learned Counsel for the Applicant and the averments made in Civil Application and as the Applicant undertakes to serve Respondent No. 1 by substituted service as per Order 5, Rule 20 of the Civil Procedure Code, I am satisfied that the Applicant has made out case for allowing this Civil Application. Hence, the following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a), (b) and (c) which reads thus:

“a. The delay of 181 days in filing the appeal may kindly be condoned;

b. This Hon'ble Court may be pleased to restore the Civil Application Nos. 1280 and 1281 of 2013 with First

Appeal (St.) No. 6786 of 2013 as against Respondent No. 1 to the file in the interest of justice;

c. This Hon'ble Court may kindly permit the Applicant to serve the notice of Civil Application Nos. 1280 and 1281 of 2013 with First Appeal (St.) No. 6786 of 2013 on the Respondent No. 1 by publication of the notice in the daily newspaper namely Free Press Journal and Navshakti widely circulated in the District Mumbai."

b. The Applicant to complete service on Respondent No. 1 as per Order 5, Rule 20 on or before 5th October, 2019 and file affidavit of service to that effect failing which, Civil Application shall stand dismissed without further reference to the Court.

c. Civil Application stands disposed of accordingly.

d. No order as to costs.

(K.K.TATED, J.)