

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

FIRST APPEAL NO.1038/2018

ICICI Lombard General Insurance Co. Ltd., Amravati

..Vs..

Shri Manohar S/o Govindrao Kirekar and another

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

Court's or Judge's orders

Ms. Ashwini Ahtalye, Advocate h/f Shri A.M. Mahajan, Advocate for the
appellant.
Shri V.R. Thote, Advocate for respondent Nos.1 and 2.

CORAM : NITIN W. SAMBRE, J.

DATED : 25.9.2019

1] Heard.

2] Submissions are, the claim petition at the behest of respondents / claimants was not maintainable and the policy Exh. No.29 does not cover the risk of the insured, who himself was driving the vehicle.

3] A support is drawn from the language of the Section 165 and Section 166 of the Motor Vehicles Act. Judgment in the matter of *Oriental Insurance Company Limited V/s. Rajni Devi and others* reported in **(2008) 5 SCC 736** and judgment in the matter of *New India Assurance Company Limited V/s. Sadanand Mukhi and others* reported in **(2009) 2 SCC 417** are also sought to be relied. In view thereof, **ADMIT.**

4] Shri V.R. Thote, learned Counsel waives notice for respondent Nos.1 and 2.

5] Paper book be filed with a period of 6 months from today, failing which the appeal shall stand dismissed without reference to Court.

C.A.F. NO.206/2019

6] The claimants are permitted to withdraw Rs.1,00,000/- simplicitor without furnishing any undertaking.

The claimants are further permitted to withdraw 50% of the amount of compensation ordered by the Claims Tribunal after adjusting the aforesaid amount of Rs.1,00,000/- upon furnishing usual undertaking to the satisfaction of the Registrar (J.)

JUDGE

Tambaskar.