

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

FIRST APPEAL NO.905/2017

National Insurance Company Limited, Nagpur

..Vs..

Mohan S/o Uddhavji Urkude and others

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

Court's or Judge's orders

Shri A.W. Paunikar, Advocate for the appellant.

CORAM : NITIN W. SAMBRE, J.

DATED : 19.9.2019

1] Heard.

2] Shri Paunikar, learned Counsel for the appellant / insurance company, on instructions, submits that the service of the unserved respondents is already effected by paper publication. Since the statement is made by the learned Counsel on instructions, same is accepted. The service on the respondents is complete.

3] The appeal is taken up for admission.

4] By the judgment dated 27th October, 2014 the Tribunal has awarded compensation of Rs.90,000/- including the no fault liability of Rs.25,000/-. The Tribunal has passed an order of pay-n-recover in favour of the appellant.

5] The submissions are, once breach of policy is

noticed by the Tribunal, the Tribunal ought not have passed the order of pay-n-recover but should have saddled the liability on the owner of the offending vehicle.

6] The submissions, if are appreciated, it is undisputed that the offending vehicle was insured with the appellant, which fact prevailed over the Tribunal to pass an order of pay-n-recover. No infirmity or illegality could be noticed. The appeal fails. It is **dismissed** accordingly. No costs.

7] The amount deposited, be made over to the Claims Tribunal so that the claimants will be entitled to withdraw the same.

JUDGE