

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

FIRST APPEAL NO.981/2017

The Oriental Insurance Co. Ltd., Nagpur

..Vs..

Ku. Anuradha D/o Sheshrao Kale and others

AND FIRST APPEAL NO.982/2017

The Oriental Insurance Co. Ltd., Nagpur

..Vs..

Sau. Usha W/o Sheshrao Kale 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.V. Joshi, Advocate for the appellant.

Shri S.A. Mohta, Advocate for respondent No.1.

.. in both matters.

CORAM : NITIN W. SAMBRE, J.

DATED : 19.9.2019

1] Heard.

2] The findings that the vehicle in the case in hand of which accident occurred on June 13, 2009 was subjected to transfer on May 21, 2009. On next day i.e. on May 22, 2009, the earlier owner got the vehicle insured. The cheque for payment of premium to the appellant insurance company appears to have been dishonoured and accordingly, the intimation to the owner and the insurance company was given by the bank. As consequences, the appellant / insurance company claim that the cancellation of policy was informed to the erstwhile owner so also R.T.O. Muradabad with whom the vehicle was registered.

3] Upon perusal of the impugned judgment, in the backdrop of the appreciation of the submissions of respective counsel, what can be noticed is, though the vehicle was transferred on May 21, 2009, on next day, the erstwhile owner without any Authority, has applied for insurance policy of the offending vehicle, which the appellant has issued. The vehicle in question was inspected on November 25, 2008 and the N.O.C. was issued by the R.T.O. Muradabad on December 10, 2008 and the said transfer was effected on May 21, 2009 with R.T.O. Beed in Maharashtra.

4] In the aforesaid background what is noticed is on the date of insuring the vehicle i.e. May 22, 2009 the vehicle already stood transferred to the subsequent owner on May 21, 2009.

5] In the aforesaid background, whether the liability should be fastened on the appellant is an issue which needs to be appreciated.

6] The appellant has already deposited the entire amount of compensation with this Court. As such, the appeals are **ADMITTED**.

7] Shri S.A. Mohta, learned Counsel waives notice for respondent No.1.

8] Paper book be filed within six months, failing

which the appeals shall stand dismissed without reference to Court.

C.A. NO.3467/2017 IN FIRST APPEAL NO.982/2017

9] There shall be stay to the execution as the entire amount of compensation is deposited.

C.A. NO.65/2018 IN FIRST APPEAL NO.982/2017

10] The respondents / claimants are permitted to withdraw the amount on furnishing usual undertaking to the satisfaction of the Registrar (J.).

The learned Counsel for the claimants submits that the amount of compensation deposited by the insurance company in this Court be remitted to M.A.C.T., Akola. The prayer appears to be reasonable. Hence allowed. The Registry is directed to transfer the amount of entire compensation to the M.A.C.T., Akola so as to facilitate the claimants to withdraw the amount on such terms and conditions as shall be fixed by the M.A.C.T., Akola.

JUDGE