

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

Civil Application (CAO) No.1592 of 2018
in
MCA St.No. 9890 of 2018 (I.P.)
in
CAF St. No.161 of 2018
in
First Appeal St.No.150 of 2018
(Ravi Tanaji Ghugalmane .vs. The Divisional Manager, The United Insurance
Co. Ltd. And others.)

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

Mr. Rohan Chhabra, Advocate for Applicant.
Mr. A.C. Chaphale, Advocate for Respondent No.1.

CORAM : Manish Pitale, J.
DATED : September 04, 2019.

Notice was issued by this Court on the application for condonation of delay as also on the application filed on behalf of the applicant/appellant seeking permission to file the appeal as an indigent person. Upon notice being issued, the respondents were served and the respondent no.1- Insurance Company has appeared through counsel.

2. By the present appeal, the appellant has challenged the judgment and order dated 14.11.2016 passed by the Motor Accident Claims Tribunal, Nagpur. In the application for condonation of delay, an attempt has been made to explain the delay of 468 days in filing the appeal by contending that the applicant/appellant was not aware about the impugned judgment and order passed by the Tribunal till a bailiff reached the house of

the applicant/appellant. It was claimed that while enquiries were made by the applicant/appellant, it was found that the said impugned judgment and order had been passed against him. It is then stated that the applicant/appellant approached the High Court Legal Services Sub Committee, Nagpur and thereupon counsel was appointed to represent the applicant/appellant before this Court.

3. For the reasons stated in the application, the same is allowed and the delay is condoned.

MCA St. No. 9890 of 2018.

This is an application filed on behalf of the applicant/appellant for permission to file the appeal as indigent person. It is claimed that the applicant/appellant is not earning enough to be able to file the accompanying appeal and that he very much answers the definition of indigent person. An enquiry was conducted by the District Collector and report is placed on record giving details about the members of the family of the applicant/appellant and his source of income. A perusal of the said material and the admitted fact that the applicant/appellant indeed owns the auto-rickshaw goes to show that the prayer made on behalf of the applicant/appellant cannot be granted. Accordingly, the application is rejected.

First Appeal St.No.150/2018.

Instead of asking the appellant to take necessary steps in view of rejection of application to file

an appeal as an indigent person and then to take up the first appeal for consideration, this Court heard the learned counsel appearing for the appellant on the merits of the appeal. The learned counsel submitted that the Tribunal committed an error in foisting the liability on the appellant as owner of the offending vehicle in the present case and that the order passed by the Tribunal deserves interference.

2. But, a perusal of the impugned judgment and order shows that the Tribunal found that the insurance policy in the present case was an “act policy” and not a “package policy” and, therefore, such a policy did not cover the occupants in the auto-rickshaw owned by the appellant. On this basis, the Tribunal held that only the appellant as owner of the auto-rickshaw (offending vehicle) was liable to pay compensation in the present case and the respondent no.1 Insurance Company stood absolved.

3. The material on record shows that the involvement of the said offending vehicle owned by the appellant is not disputed. It is also not disputed that the appellant is owner of the offending vehicle. The quantum of compensation and the manner in which it has been calculated is also not challenged in the present appeal and, therefore, in the light of the reasons given by the Tribunal in paragraphs 12 and 13 of the impugned judgment and order, this Court finds that it cannot be said that the Tribunal has committed any error in holding only the appellant as liable for

payment of compensation to the claimants in the present case.

4. Hence, it is found that there is no merit in the present appeal and accordingly, it is dismissed.

JUDGE

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