

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

C.A.F. NO.168/2019

IN

FIRST APPEAL STAMP NO.26104/2018

Manager, The National Insurance Company Ltd., Nagpur

..Vs..

Smt. Santosh Ramayan Sharma 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 Amit Kukday, Advocate for the appellant.

CORAM : NITIN W. SAMBRE, J.

DATED : 25.9.2019

1] Heard.

2] For the reasons disclosed, civil application stands **allowed**. No costs.

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3] Heard Shri Kukday, learned Counsel for the appellant / insurance company. According to him, an error apparent on the face of record could be noticed from the judgment impugned as the liability of the appellant / insurance company against 8 passengers is restricted to Rs.1,00,000/- for each passenger. He would try to draw support from insurance cover issued to the insurer which is at Exh.53.

4] According to him, once the document was produced on record and marked exhibit, the onus is on

the claimants to prove that they are entitled for compensation more than the liability covered.

5] If the contentions of Shri Kukday are appreciated based on the insurance cover at Exh.53 what can be noticed is, the appellant has not examined any witness so as to prove its case that the liability against the insurance cover is restricted to Rs.1,00,000/- per passenger. Just because a document is marked exhibit that by itself will not amount in proving the contents therein. The appellant was duty-bound to prove that the liability is restricted to Rs.1,00,000/- per passenger for 8 passengers, which it failed. In view of above, no case for interference is made out. The appeal stands **dismissed**. No costs.

6] The entire amount of compensation deposited in this Court be relegated to the Claims Tribunal so that the claimants will be entitled to withdraw the same in accordance with the order of Tribunal.

JUDGE