

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

**Civil Application No.1979 of 2019**

**in**

**First Appeal St. No.28137 of 2018**

**(The Oriental Insurance Company Ltd. Nagpur .vs. Rupesh Sukhdeo Modak  
and others. )**

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

Court's or Judge's orders.

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Ms. Anita Mategaonkar, Advocate for Applicant/Appellant.

**CORAM : Manish Pitale, J.**

**DATED : September 27, 2019.**

Although the office note shows that the respondent no.4 is yet to be served, learned counsel Mr. R.R. Dhawad states that he has already entered appearance on behalf of the said respondent. Accordingly, service on all the respondents is complete.

2. Insofar as the application for condonation of delay is concerned, the said application has been filed by the appellant for condonation of delay of 16 days in filing the accompanying appeal.

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

**First Appeal St. No.28137/2019.**

Heard learned counsel for the appellant.

2. It is submitted that in the present case there was absence of cogent material to show involvement of

the alleged offending vehicle in the accident. It is further submitted that there was a fundamental breach of the policy because the driver of the motorcycle was allegedly not having a valid licence.

3. Hence, issue notice for final disposal, returnable in six weeks.

4. Mr. Hussain, learned counsel, waives notice on behalf of respondent nos. 1 to 3 and Mr. R.R. Dhawad, learned counsel waives notice on behalf of respondent no.4.

5. Call for R. & P.

**Civil Application No. 1848 of 2019.**

This is an application for withdrawal of amount moved on behalf of the original claimants i.e. respondent nos. 1 to 3.

2. Since the notice has been issued for final disposal in this appeal, for the present, respondent nos. 1 to 3 are permitted to withdraw 50% of the amount deposited by the appellant/Insurance Company in this Court, subject to furnishing usual undertaking before the learned Registrar (Judicial), within a period of four weeks.

**JUDGE**