

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

Civil Application (F) No.792/2021 in First Appeal No.1512/2019

(IFFCO Tokio General Ins. Co. Ltd., Nagpur V Sau. Manorama Mlrge 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.J. Pophaly, Adv for appellant.
 Shri S.K. Bhoyar, Adv for resp. nos. 1 and 2.

CORAM : S.M. MODAK, J.

DATE : 07-04-2021.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. In fact, as per the order dated 16-03-2021, this Court has permitted the appellant to carry out the amendment so as to incorporate the grounds relating to rejection of their application to examine the concerned Police Officer. This application is filed as per the said order. The claimants are consenting. Hence, the appellant is permitted to incorporate the grounds mentioned in paragraph 2 of the application in the memo of appeal and to email it to the respondents.

3. Application is disposed of.

First Appeal No.1512/2019

First appeal came to be admitted on 02-08-2019. Yet there is no order to call R and P. So also there is no order to issue notice to respondent nos. 3 to 6. There is order to dispense with the notice to them. There is order to waive notice on behalf of respondent nos. 1 and 2.

2. Call R and P.
3. Issue fresh notice to respondent no. 3 to 6.

Civil Application (F) No.717/2021

I have heard learned Advocate Shri Pophaly for the appellant and learned Advocate Shri Bhoyar for respondent nos. 1 and 2/original claimants.

2. There is a serious dispute amongst the parties as to whether the accident took place due to use of the motor vehicle/tractor. The claimants contend that the Tractor was a stationary whereas the insurance Company contends that this tractor was already involved in an earlier accident with car and the local Police Station have lifted the tractor from the spot.

3. The Insurance Company moved two applications before the Tribunal. One is, for issuing summons to the concerned Police Officer. It was rejected. For that additional grounds are permitted in the memo of the appeal. Second is, an application for carrying out amendment in the written statement. It was also rejected. Learned Advocate Shri Pophaly contends that Writ Petition preferred against the said order is also rejected.

4. The R and P is not before us and even the appellant has not filed the necessary documents. So the claim for withdrawal of the entire amount cannot be decided today. But certainly the respondent nos. 1 and 2 can be permitted to withdraw Rs.10 lakhs considering the fact that the accident took place in the year 2013 and they are the parents of the deceased who was driving the motor vehicle. Hence, the directions :-

DIRECTIONS

- (a) The nazir is directed to transfer an amount of Rs. 10 lakh in the bank accounts of respondent nos. 1 and 2 on furnishing bank details and on personal identification of respondent no.2- Janardhan.
 - (b) They are directed to give an undertaking that they will return the amount if the decision of the appeal goes against them.
 - (c) The prayer for withdrawal of rest of the amount will be considered after the R and P will be received.
5. Matter be placed after R and P is received.

(S.M. Modak, J.)