

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

CIVIL APPLICATION (CAF) NO.1785/2021

IN

FIRST APPEAL NO.1043/2013 (D)

National Insurance Co.Ltd., thr.its Branch Manager, Zilla Parishad Chowk,
Bhandara, District Bhandara

..VS..

Haribhau s/o Namdeorao Maske and ors

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

Court's or Judge's Order

.....
Mrs.M.M.Ghatode, Counsel for Applicants/Respondent
Nos.1 & 2/Original Claimants.

CORAM : V.M.DESHPANDE, J.

DATED : OCTOBER 20, 2021

1. Heard.
2. This is an application moved by Haribhau s/o Namdeorao Maske and Anshul Maske, who are respondents in this first appeal.
3. The first appeal was filed by the National Insurance Company Limited challenging judgment and award dated 17.4.2013 passed by learned Chairman, Motor Accident Claims Tribunal, Bhandara in Claim Petition No.4/2012. Under the said award, respondent Nos.1 and 2/claimants were found to be entitled to get amount Rs.3.00 lacs along with interest at the rate of 12% per annum from the date of filing of the claim petition till its realization.
4. The first appeal was filed in the year 2013

through learned counsel Shri R.D.Khade. On 9.10.2013, the first appeal along with an application for grant of stay was listed before the Court and this Court (Coram : A.V.Nirgude, J.) issued Notices for final disposal and also granted stay subject to appellant depositing entire decretal amount.

5. In view of order dated 9.10.2013, the appellant deposited Rs.2,83,183/- with the Registry of this Court.

6. Learned counsel Mrs.M.M.Ghatode appeared for original claimants.

7. It appears that after the appeal was admitted on 26.8.2014, nobody was appearing for the appellant and resultantly on 23.2.2021 this Court (Coram : Smt.Anuja Prabhudessai, J.) dismissed the appeal for want of prosecution. As on today, no application is filed by the appellant for restoration of the appeal.

8. Original claimants/respondent Nos.1 and 2 filed the present application on 2.9.2021 seeking permission to withdraw amount Rs.2,83,138/- along with accrued interest.

9. On 8.10.2021, learned counsel for claimants filed a pursis along with acknowledgement from the National Insurance Company Limited showing that the present civil application was served to the appellant.

10. Learned counsel for the appellant chose not to remain present on any occasion.

11. Today, in the morning session, when the matter was called out, learned counsel for the appellant was absent and, therefore, the matter was kept in second half. Even in

second half, when the matter is called out, learned counsel for the appellant is not present nor there is any request on his part for adjournment.

12. The appeal is already dismissed for want of prosecution. The appellant has deposited amount as directed by the Court.

13. After hearing learned counsel for original claimants and after having gone through contents in this application, I am of view that the present application needs to be allowed. Accordingly, I pass following order:

ORDER

(1) The civil application is allowed.

(2) Claimants Haribhau s/o Namdeorao Maske and Anshul s/o Haribhau Maske are entitled to withdraw amount Rs.2,83,183/-, as deposited by the appellant, along with accrued interest.

With this, the civil application stands disposed of accordingly.

JUDGE

!! BRW !!

...../-