

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

CIVIL APPLICATION NO.677/2021 IN MISC. CIVIL APPLICATION ST.
NO.5498/2020 IN FIRST APPEAL NO. 1259/2018

IFFCO Tokio General Insurance Co. Ltd. Chandrapur .vs. Shri Keshao s/o
Ganpati Malekar and anr.

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

Court's or Judge's orders.

Mr. A. J. Pophaly, Advocate for applicant.
Ms N. Chandak, Advocate for non applicant no.1
Mr. A. B. Tikle, Advocate for non applicant no.2.

CORAM : V.M. DESHPANDE, J.
DATED : NOVEMBER 23, 2021

These are the applications for condonation of delay and for restoration of the appeal. These applications are filed by insurance company as First Appeal No.1259/2018 was dismissed as insurance company has not filed the private paper book within the stipulated time, as directed by this Court.

Mr. Pophaly, learned counsel for insurance company submits that paper book is ready and he will be filing within one week from today.

The statement is accepted.

In addition, Ms Niharika Chandak, learned counsel for claimants submits that she has instructions from claimant not to oppose this application.

Consequently, the applications are allowed. Delay caused in filing application as also application for restoration of appeal are allowed. First Appeal No. 1259/2018 is restored to file. Appellant is directed to file private paper book within one week from today.

The applications stand disposed of.

CIVIL APPLICATION (CAF) NO. 2260/2021

This is an application filed by original claimant for transferring amount of compensation deposited by appellant-Insurance Company in this Court to Motor Accident Claims Tribunal, Chandrapur and seeking permission on behalf of original claimant to withdraw the said amount.

Heard Ms Chandak, learned counsel for original claimant, Mr. Pophaly, learned counsel for insurance company and Mr. Tikle, learned counsel for non applicant no.2. Appeal filed on behalf of appellant is dismissed because the appellant-insurance company did not observe the condition of tendering paper book within two months as directed by this Court (Coram: Nitin W. Sambre, J.). Consequently the appeal was dismissed.

It is admitted before me that insurance company has already deposited entire decretal amount before this Court.

Today, the appeal filed on behalf of the insurance company is restored by this Court.

It is an admitted fact that the insurance company has already deposited the entire amount before this Court.

The appeal filed by the appellant is mainly against the quantum. In that view of the matter, the claimant is entitled to withdraw the amount.

The claimant submits that the amount deposited by the insurance company before this Court be transferred to the Motor Accident Claims Tribunal, Chandrapur along with interest accrued thereon and permit them to withdraw the said amount.

The application is allowed. It is directed that the amount deposited by appellant-insurance company be transferred to the M.A.C.T., Chandrapur along with interest accrued thereon and the M.A.C.T. Chandrapur is directed to permit the claimant to withdraw the amount after obtaining their undertaking that if appeal filed on behalf of the appellant is allowed or partly allowed then to that extent the claimant will refund the amount with interest as determined by the Court.

The application is disposed of.

JUDGE

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