

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

First Appeal No.423/2020

National Insurance Co. Ltd. Vs. Nagsen s/o Dharamraj Bharne & Anr.

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

Court's or Judge's Orders

Shri B.P. Bhatt, Advocate for the Appellant.

Shri R.M. Wasnik, Advocate for Respondent No.1.

CORAM : S.M. MODAK, J.

DATE : 21st APRIL, 2021.

Hearing was conducted through Video Conferencing and the learned Advocate agreed that the audio and visual quality was proper.

Heard both the sides.

There is a defence that on the date of accident, the insurance policy was not in force. Whether this argument has got a merit or not can be decided only when the appeal will be heard finally. But in view of this, the respondent No2/owner needs to be served.

The notice sent by RPAD returned as submitted by learned Advocate Shri B.P. Bhatt for the appellant. Hence, respondent No.2 be served by paper publication.

Stand over after two months.

Civil Application (CAF) No.1508/2020

Considering the limited issue involved, this Court has directed that this application will be heard, if the final hearing could not be completed within a period of three months. Even though the appellant was granted permission to serve the respondent

No.2/owner by alternate mode. They have not exhausted it initially. Now, the said permission is granted. It will take time for said service in view of that there is a right accrued in favour of respondent No.1 to insist for hearing of the withdrawal application.

If the appellant is exonerated in this appeal, the respondent No.2/owner will only be responsible. There will be difficulty for the appellant-insurance company to recover the amount. At the same time, certain relief needs to be granted to the respondent No.1. Hence, the following order:-

ORDER

- a) The office is directed to transfer an amount of Rs.50,000/- in the bank account of Respondent No.1 on furnishing bank details and personal identification.
- b) The respondent No.1 is directed to give an undertaking that he will return the amount if the decision of the appeal will go against him.
- c) The civil application is disposed of.

JUDGE