

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

Civil Application [CAF] No.2868 of 2019
in
First Appeal St.No.12945 of 2019

National Insurance Co. Ltd.

vs.

Rajendra Pandurangji Tadas & others

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

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Court's or Judge's Orders

*Shri S.P. Bhatt, Advocate for the Applicant/Appellant.
Shri A.R. Rishi, Advocate for Respondent No.1.
Shri D.N. Mudgale, Advocate for Respondent No.4.*

CORAM : S.M. MODAK, J.
DATE : 8th JANUARY, 2021.

Heard.

02] There is a delay of 173 days in preferring an appeal against the judgment of the Claims Tribunal, Hinganghat. It was decided on 27/09/2018. The appellant took time in complying with the office procedure.

03] The delay is opposed on behalf of respondent No.1-original claimant and by respondent No.4-owner of the vehicle. Respondent Nos.2 & 3 have not appeared though served. They are opposing the condonation of delay.

04] There are convincing reasons for condonation of delay. Hence, the delay of 173 days is condoned. The appeal be registered. The application is disposed of.

First Appeal St. No.12945/2019 :

Heard.

02] Issue notice to the respondents.

03] Learned Advocate Shri Rishi waives notice for respondent No.1 and learned Advocate Shri Mudgale waives for respondent No.4.

04] There is no need to issue fresh notices to respondent Nos.2 & 3, because they have already been served and not appeared.

05] Copies of necessary documents be supplied to respondent Nos.1 & 4.

06] Call for record and proceedings.

Civil Application [CAO] No.2142/2019:

Heard.

02] Even though the decretal amount is only to the extent of Rs.1,25,000/-, the Insurance Company has filed the appeal, because they were having the defence of breach of insurance policy. It was for not possessing valid driving licence by the driver of the vehicle. It is fortunate that the owner of the vehicle has also appeared before this Court.

03] There is an opposition for withdrawal and request to decide the appeal finally. It can be done later on. But, today withdrawal application needs to be decided. Hence, the order:

➔ The Nazar is directed to transfer 75% of the amount from the deposited amount along

with the interest thereon in the bank account of respondent No.1 on personal identification.

- ➔ Respondent No.1 is directed to give an undertaking that he will return the amount as and when directed by this Court.
- ➔ The application is disposed of.

JUDGE

**sandesh*