

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

Civil Application [CAF] No.2210 of 2018
in
First Appeal St.No.25097 of 2017

Bharti AXA General Insurance Co. Ltd.

vs.

Purushottam Ranuji Nawale & 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 A.J. Pophaly, Advocate for the Applicant/Appellant.
Ms. Gayatri Dive h/f Shri P.R. Agrawal, Advocate for Respondent
Nos.1 to 4 & 6.*

CORAM : S.M. MODAK, J.
DATE : 24th AUGUST, 2021.

Heard the learned Advocate for the appellant and the learned Advocate for respondent Nos.1 to 4 & 6-original claimants.

Though notices were sent to respondent Nos.7 & 8-owner and driver of the insured vehicle respectively, they have not appeared. Service report is also not on record. Though both of them have filed written statement before the Tribunal, they have not given any evidence. Hence, the matter is taken up for hearing.

The judgment is delivered by the Motor Accident Claims Tribunal, Amravati on 22/12/2016. Whereas the certified copy was applied on 20/09/2017 and the copy was delivered on 25/09/2017 that is why there is a delay of 246 days in preferring an appeal. It is opposed on behalf of the contesting respondents. It is mentioned in the application that the appellant is

not having knowledge about the decision and when the execution notice is received, they are aware about the judgment. How it can be accepted, because the Insurance company is party to the litigation. Orally, it is submitted that the learned Advocate representing the insurance company has not informed to the insurance company. The litigant should not suffer on the inaction on the part of the learned Advocate appearing before the Tribunal, but it has to be subject to the costs. Hence the order :

- i. The delay of 246 days caused in preferring an appeal is condoned subject to deposit of costs of Rs.500/- to the High Court Legal Services Sub Committee, Nagpur.
- ii. Subject to that, the appeal be registered.

Civil Application [CAF] No.1446/2021:

Heard the learned Advocate for the claimants and the learned Advocate for the appellant-insurance company.

The insurance company has deposited Rs.13,51,597/- before the Tribunal, Amravati. The claimant Nos.1 to 4 are the husband and major children of the deceased, whereas claimant No.6 is the mother-in-law. She has not been granted any compensation.

In view of that 100% withdrawal is not allowed. Respondent Nos.1 to 4 are permitted to withdraw Rs.5,00,000/-. Hence, the directions :

- I. The application is allowed.
- II. Respondent Nos.1 to 4 are permitted to withdraw Rs.5,00,000/-.
- III. The Tribunal, Amravati is directed to transfer the amount of Rs.5,00,000/- in the bank account of respondent No.1-Purushottam Nawale.
- IV. Respondent No.1 is directed to give bank details and also the authorization on behalf of respondent Nos.2 to 4 to get the entire amount.
- V. After deposit, respondent No.1 to deal with the amount as per the directions of the Tribunal.
- VI. The application is disposed of.

First Appeal St. No.25097/2017 :

Heard.

Admit.

Issue notice to the respondents.

Learned Advocate Ms. Dive waives notice for respondent Nos.1 to 4 & 6.

Fresh notice be issued to respondent Nos.7 & 8 by R.P.A.D. in addition to usual mode of service.

Call for record and proceedings.

The matter be referred to the Lok-Adalat when it will be organized. The parties to appear before the Lok-Adalat.

JUDGE