

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

902 CIVIL APPLICATION NO.4640 OF 2021
IN FIRST APPEAL NO.941 OF 2006

NEW INDIA ASSURANCE COMPANY LIMITED
VERSUS
SMT VIJAYA LATE DEORAO GAVALE & OTHERS

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Advocate for Appellant : Mr.M.R.Deshmukh
Advocate for respondent nos.1 to 8 : Mr.A.S.Bajaj

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CORAM : S.G.DIGE, J.
DATE : 08.07.2022

P.C. :

1] Heard the learned counsel for the applicant.

2] The learned counsel for the applicant submits that the applicant has challenged the order passed by the Motor Accidents Claims Tribunal, Aurangabad. This Court had issued the notices to the respondents. Notice of respondent no.9 is returned unserved with bailiff report that address of respondent no.9 is incomplete. Thereafter, the matter was listed before the learned Registrar [Judicial] on 21st July, 2009 for removal of office objections. The then learned Advocate appearing for the applicant could not take

steps for service of notice to respondent no.9. Hence, appeal was dismissed against respondent no.9 vide order dated 21st July, 2009. The learned counsel further submits that respondent no.9 is the owner of the vehicle. Considering the grounds raised in the appeal, respondent no. 9 is necessary and proper party, hence, requested to set aside the order passed by the learned Registrar [Judicial] and restore the appeal against respondent no.9.

3] The learned counsel for respondent nos. 1 to 8 original claimants submits that this Court may pass appropriate order.

4] The applicant has preferred appeal against the impugned order. As per the say of the applicant, owner of the vehicle is necessary and proper party. The earlier Advocate representing the applicant could not take steps to remove office objections. In my view, in the interest of justice, it is necessary to give opportunity to the applicant as owner of the vehicle is necessary party, hence, I pass the following order :-

ORDER

i] The application is allowed. The order dated 21st July, 2009 passed by the learned Registrar [Judicial] is quashed and set aside subject to deposit of cost of Rs.5,000/- with the Dean, Government Cancer Hospital, Aurangabad.

ii] Civil Application is disposed of accordingly.

[S.G.DIGE]
JUDGE

DDC