

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

FIRST APPEAL NO.163 OF 2022

{The Divisional Manager **..Vrs..** Smt. Mangala W/o Dilip Wagh and
Ors.}

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

Court's or Judge's order

Ms M. Naik, Advocate for the Appellant.

CORAM : **ABHAY AHUJA, J.**

DATE : **12th OCTOBER, 2022.**

. This is an appeal challenging the judgment and award dated 04.02.2021, passed by the Motor Accident Claims Tribunal, Nagpur ("the Tribunal"), in Claim Petition No.1105 of 2014, whereby the Tribunal has granted the claim of the Respondents/original Claimants.

2. Ms Naik, learned counsel for the Appellant/Insurance Company draws the attention of this Court to the impugned order to submit that an excessive compensation without considering the principle of loss and gain has been awarded in this matter. She would submit that there is also contributory negligence on the part of the deceased Dilip Wagh as he was not holding a valid driving license.

3. The Respondents though served are not represented.

4. Having heard the learned counsel and having perused the grounds as well as the impugned order, the following order is passed :

ORDER

5. **Admit.**

6. Registry is directed to call for Record and Proceedings within a period of four weeks.
7. Private paper-book alongwith compilation of documents and evidence be filed within a period of four weeks thereafter.
8. Let a copy of the memo of appeal alongwith compilation of documents and evidence be served on the Respondents within a period of two weeks and an affidavit of service with tangible proof be filed in this Court by the next date.
9. List the matter on **22.12.2022**.

CIVIL APPLICATION (F) NO.275 OF 2022

10. Ms Naik, learned counsel for the Appellant/Insurance Company submits that the entire amount of compensation as directed by this Court has been deposited in this Court and stay on the execution of the impugned order dated 04.02.2021 may be confirmed.
11. The Respondents though served are not represented.
12. Let there be a stay on the execution of impugned order dated 04.02.2021, continue till the final disposal of the appeal.
13. The civil application accordingly stands disposed.

(JUDGE)