

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

**CIVIL APPLICATION NO. 12618 OF 2023
IN
FIRST APPEAL NO.2333 OF 2018**

**JYOTI ASHOK THORAT AND ORS.
VERSUS
NEW INDIA INSURANCE CO. THR. ITS DIVISIONAL MANAGER,
AURANGABAD**

...

Advocate for Applicant : Mr. D. B. Pawar
Advocate for Respondent: Mr. M. M. Ambhore

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 17.10.2023

PER COURT :

1. By this application, the applicants seek modification of the judgment dated 17/07/2023, passed by this Court, in First Appeal No.2333/2018. For that purpose, following prayers are employed:

“(B) The judgment delivered on 17/07/2023 by this Hon’ble Court in First Appeal No.2333/2018 may please be modified and the submissions put forth by the applicants along with cited judgment may please be recorded in the judgments.

(C) The judgments delivered on 17/07/2023 by this Hon’ble Court may please be recalled and First Appeal No.2333/2018 may please be heard afresh.”

2. Mr. Pawar, learned Advocate appearing for the applicants submits that, during the course of argument of first appeal, he had submitted written notes of arguments accompanied with the

citations. However, such citations are not referred in the judgment delivered by this Court. Therefore, he seeks modification or recalling of the judgment.

3. Per contra, Mr. Ambhore, learned Advocate appearing for the respondent – insurance company submits that, this Court has referred the latest judgments of this Court as well as the Supreme Court while deciding the first appeal, wherein, the judgments relied by the respondent are also considered. Therefore, he submits that, there is no ground for review, recall or modification of the judgment.
4. The perusal of the record shows that, the written notes of arguments were tendered on behalf of the respondent / claimant. The judgments in the case of **A.P.S.R.T.C. & Anr. Vs .K. Hemalatha & Ors.¹**, **Raj Rani and Others Vs. Oriental Insurance Company Limited and Others²**, **T. O. Anthony Vs. Karvarnan³** and **National Insurance Company Vs. Chamundeswari⁴** were submitted.
5. This Court while considering the issue referred to the judgments of the Supreme Court in the matter of **Oriental Insurance Company Ltd. Vs. Premlata Shukla and Others⁵**, **Surender Kumar Arora Vs. Manoj Bisla⁶**, **Minu B. Mehta Vs. Balkrishna Ramchandra Nayan⁷** and **Lachooram Vs. Himachal Road Transport Corporation⁸**.

Therefore, non-reference to the judgments tendered by the

1 2008 (8) SCR 1201

2 2009 CJ (SC) 1195

3 2008 CJ (SC) 1801

4 ACJ 2021 2558

5 2007 AIR SCW 3591

6 2012 (4) SCC 552

7 1997 ACJ 118

8 2014 AIR SCW 1081

respondent does not cause any prejudice. All the points argued are given due consideration.

6. Even otherwise, no error apparent on the face of record or any other ground for review or recall of the judgment is demonstrated. In that view of the matter, there is no merit in the civil application. Hence, the application stands dismissed.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer