

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3336 OF 2022

IN

FIRST APPEAL NO.457 OF 2022

WITH

FIRST APPEAL NO.457 OF 2022

RELIANCE GENERAL INSURANCE CO.LTD.)...APPLICANT

V/s.

GANDADHAR JANAJI TODKAR AND ORS.)...RESPONDENT

Ms.Kalpana Trivedi, Advocate for the Applicant/Appellant.

Ms.Rina Kundu, Advocate for the Respondents.

CORAM : ABHAY AHUJA, J.

DATE : 8th AUGUST 2023

PC. :

1. This is an Interim Application seeking stay on the execution of the judgment and award dated 9th October 2019 passed by the Motor Accident Claims Tribunal, Thane in Motor Accident Claim Petition No.1064 of 2009.

2. Ms.Trivedi, learned Counsel for the Applicant/Appellant Insurance Company, would submit that the entire decretal amount has already been deposited and the stay granted earlier be continued till

the final disposal of the Appeal. Ms.Kundu, learned Counsel for the Respondents, confirms that the entire decretal amount has been deposited and has no objection if the stay is continued till the final disposal.

3. Having heard the learned Counsel and having perused the application as well as the record, let the stay granted earlier be continued till the final disposal of the Appeal.

4. The Interim Application, accordingly, stands disposed.

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5. This is an Appeal challenging the judgment and award dated 9th October 2019. Ms.Kalpna Trivedi, learned Counsel for the Appellant – Insurance Company, would submit that her client insured the jeep which was involved in the accident with a truck which is insured by Bajaj Allianz Insurance Company and since this involves an accident between two vehicles, there should have been contributory negligence attributed to the other vehicle and Bajaj Allianz Insurance Company should have also been made liable to pay part of the compensation. Learned Counsel would submit that, however, the Tribunal has, ignoring the police papers, gone ahead and held the driver of the jeep

to be solely negligent and attributed 100% of the negligence on him, making the Appellant Insurance Company jointly and severally liable with the Respondent no.4 – owner to pay the compensation, and therefore the Appeal.

6. Having heard the learned Counsel and having perused the impugned judgment and the grounds, the following order is passed :

ORDER

- (i) Admit.
- (ii) Registry is directed to call for Record and Proceedings within a period of four weeks.
- (iii) Let private paper book be filed within a period of four weeks thereafter.
- (iv) List on **3rd October 2023**, subject to removal of all office objections and service to all the Respondents.

(ABHAY AHUJA, J.)