



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 CIVIL APPLICATION NO. 2860 OF 2024

IN

FA/234/2013

PANJAB NATHARAO WATHORE

VERSUS

THE NEW INDIA ASSURANCE CO. LTD THR MANGER

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Advocate for Applicant : Mr. G.k. Muneshwar

Advocate for Respondent No.1 : Mr. Ajit B. Kadethankar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 12th MARCH, 2024

PER COURT:

1. Heard.
2. Mr. Ajit B. Kadethankar, learned counsel has tendered across the bar the impugned order passed by the tribunal dated 27.08.2012. The same is taken on record and marked "X" for the purpose of identification.
3. Mr. Ajit B. Kadethankar, learned counsel appearing for the insurance company submits that, inadvertently, he failed to comply with the order dated 04.09.2014 and seeks leave of this court to re-call the order of dismissal passed in the first appeal, in view of the non supply of paper books.

4. The order dated 04.09.2014 is re-called and the appeal is restored.

5. Mr. Ajit B. Kadethankar, learned counsel appearing for the insurance company further submits that, in view of the order passed by the tribunal dated 27.08.2012, wherein the insurance company is directed to pay the amount and permitted to recover the same from respondent no.1 – owner of the insured vehicle, the same cannot be faulted in view of the subsequent development of law on the aspect of “Pay and Recover”.

6. In view of the same and the subsequent development of the law on the subject, nothing survives in the first appeal and the first appeal stands dismissed.

7. On dismissal of the first appeal, the application filed by the claimant bearing Civil Application No.2860 of 2024 for withdrawal of amount is allowed in terms of prayer clause “B”.

[ARUN R. PEDNEKER, J.]

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