



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

CIVIL APPLICATION NO. 13406 OF 2022 IN FAST/13819/2022
WITH CIVIL APPLICATION NO. 13407 OF 2022 IN FAST/13819/2022
WITH FAST/13918/2022

Sachin Sudam Murade,
Age 43 years, Occu. Business,
R/o. Rohakadi, Taluka Junnar,
District Pune

.. Applicant/Appellant
(Original Respondent)

Versus

Gopinath Shivram Gadekar,
Age 62 years, Occu. Business,
R/o. Takali Dhokeshwar,
Taluka Parner, District Ahmednagar

.. Respondent
(Original Claimant)

Mr. Ajay T. Kanawade, Advocate for Applicant;
Mr. A. V. Songire, Advocate holding for Mr. V. P. Latange, Advocate
for Respondent

CORAM : S. G. MEHARE, J.

DATE : 08-03-2024

PER COURT :-

1. Heard the learned counsel for the parties.
2. Learned counsel for the applicant submits that, the appellant is the owner of the vehicle involved in the accident. The motor accident claim petition was proceeded ex-parte. He did not know about the award. He had recently purchased the offending vehicle from its pre-owner. The offending vehicle was insured. However,

the insurance company was not joined as party to the petition. He submits that the applicant has a good case on merit. On transfer of vehicle, the insurance policy is automatically get transferred. The learned Tribunal did not consider this legal aspect.

3. Learned counsel for the respondent opposed the application contending that there are no good grounds to condone the delay.

4. Perused the impugned judgment and order.

5. Considering the submission that the vehicle though transferred was insured, the award has been passed against the applicant. The legal issue is involved in the case. For default of others, one should not suffer. The applicant appears to have good reasons for condonation of delay. Hence, the following order is passed;

ORDER

- I) The application is allowed.
- ii) The delay caused in preferring the first appeal stand condoned.
- lii) Office to register first appeal.
- iv) Issue notice to respondent.
- v) Learned counsel waives service of notice for respondent.

6. Heard the learned counsel for the respective parties finally at the admission stage by consent.

7. The appellant has a case that at the relevant time the vehicle allegedly involved in the accident was insured with the New India Assurance Company. However, this fact was not brought to the notice of the learned Tribunal. Hence, the learned Tribunal passed an award against the applicant/appellant. He has produced the copy of Insurance Certificate. The said certificate indicates that the goods carrying vehicle was shown involved in the accident and it was brought to the notice of the learned Tribunal. So, it may be safely said that the vehicle involved in the accident and purchased by the purchaser were same. *Prima facie*, the said vehicle was insured with the insurer. The reasons best known to the respondent, why he did not add the insurer as party to the petition. In the accident, injured had suffered the permanent disability.

8. The appellant might be under a wrong impression that the insurer will bear the liability. It also appears that he was not given a good and proper legal assistance. The Court is satisfied that the applicant/appellant has a good case on merit. Therefore, the appeal deserves to be allowed. Hence, the following order is passed;

ORDER

- i) The appeal is allowed.

- ii) The judgment and award of the learned Motor Accident Claims Tribunal, Ahmednagar, passed in Motor Accident Claim Petition No.640 of 2010, dated 18.03.2017, stands quashed and set aside.
- iii) The matter is remitted to the learned Motor Accident Claims Tribunal, Ahmednagar, to decide, whether the insurance policy of the offending vehicle issued in the name of pre-owner automatically transfer to the subsequent purchaser and the insurer in such a case is liable to pay compensation, subject to the violation of the policy.
- iv) Both parties should appear before the Motor Accident Claims Tribunal, Ahmednagar, on 08.04.2024.
- v) The learned Tribunal shall give opportunity to the present appellant to file written statement, if not filed and leave to lead evidence, if required or prayed for.
- vi) The matter is of the year 2010. Hence, the Chairman, Motor Accident Claims Tribunal, Ahmednagar, is requested to expedite the matter and decide it at the earliest.
- vii) Civil applications stand disposed of.

**(S. G. MEHARE)
JUDGE**