IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL FIRST APPEAL (ST) NO. 4637 OF 2018
ALONGWITH
CIVIL APPLICATION NO. 3560 OF 2018
ALONGWITH
INTERIM APPLICATION NO. 11563 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 11562 OF 2024

Reliance General Insurance
Company Limited ...Appellant
vs.
Chandra Bhushan
Rama Shanker Singh And Anr. ...Respondents

ALONGWITH
INTERIM APPLICATION NO. 11561 OF 2024
IN
CIVIL FIRST APPEAL (ST) NO. 4637 OF 2018

Chandra Bhushan
Rama Shanker Singh And Anr. ...Appellant
vs.
Reliance General Insurance
Company Limited ...Respondent

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Adv. Abhinandan Waghmare i/by Adv. Shalini Shankar	Advocate for the Appellant
Adv. Amol Gatne and Av. Swati Mehta	Advocate for the Respondent No. 1

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CORAM : S. M. MODAK, J.

DATE : 12th AUGUST 2024

P. C. :-

1. Heard learned Advocate for the Claimant and learned Advocate for the Insurance Company.

2. Learned Member of the MACT, Mumbai as per Order dated 08/05/2017 has directed the owner and Insurance Company to pay an amount of Rs. 7,90,000/-. This order is challenged on behalf of the Insurance Company. That is why there is delay of 145 days in preferring an appeal and that is why Civil Application No. 3560 of 2018 is filed.

3. The Claimant is Respondent No. 1. He has waived the notice. Notice on Respondent no. 2-owner could not be served. There are few Orders passed by learned Registrar (Judicial-2). They are as follows:-

(i) Order dated 24/01/2020

(ii) Order dated 20/09/2022

4. By the said Order, the Insurance Company was directed to take steps for service on Respondents and in case of failure, then Civil Application is stands dismissed.

5. That is why the Insurance Company has filed an Interim

Application No. 11562 of 2024 for condoning the delay and setting aside the Order dated 24/01/2020. (there is overwriting) and Interim Application No. 11563 of 2024 is filed for condoning the delay and setting aside the Order dated 06/09/2018. (this order is not there in the record)

6. Both these applications are not listed. They are taken on board.

7. Notice be issued to Respondent No. 2-owner returnable on 07th October 2024.

8. Let the Insurance Company to serve him privately and to file service affidavit before the next date.

9. Unless and until delay is condoned, and those orders are set aside, the main application for condonation of the delay cannot be heard.

10. There is an interim application no. 11561 of 2024 filed by the Claimant. The amount deposited is Rs. 13,39,060/-. The contention of the Claimant is that he is awarded less amount towards injury by the Learned Member. It is contended that Insurance Company has taken defence of absence of valid license by the owner of the offending vehicle. It is further submitted that no evidence was adduced during trial.

11. In view of that following Order is passed:-

ORDER

(i) The Applicant be permitted to withdraw 80% of the deposited amount on usual undertaking.

(ii) Interim application No. 11561 of 2024 is disposed of.

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12. Considering the limited issue involved, this matter be referred to the Mediation. Hence, order :--

ORDER

(i) Matter be referred to Deputy Registrar, Mediation Centre, Mumbai.

(ii) Learned Deputy Registrar has to appoint a Mediator.

(iii) Parties to appear before learned Deputy Registrar, Main Mediation Centre, Mumbai on 29th August 2024.

13. Matter be kept on **14th October 2024 for Compliance.**

14. The Claimant and Insurance Company can appear before learned Mediator appointed by learned Deputy Registrar, Main Mediation Centre, Bombay.

15. Even Claimant is at liberty to inform a Mediator about his claim for enhanced amount.

[S. M. MODAK, J.]