



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 1955 OF 2024

WITH

CIVIL APPLICATION (CAF) NO. 1956 OF 2024

WITH

CIVIL APPLICATION (CAF) NO. 531 OF 2025

IN

FIRST APPEAL (ST) NO. 4173 OF 2024

(The Oriental Insurance Company Ltd. V/s Smt. Varsha Onkarrao Fating & Ors.)

Office Notes, Office Memoranda of Coram,
Appearances, court's orders or directions and
Registrar's orders

Court's or Judge's orders

Ms. Anita Mategaonkar, Advocate for Appellant.
Mr. S. S. Alaspurkar, Advocate for Respondent Nos.1
and 2.

CORAM : ROHIT W. JOSHI, J.
DATE : FEBRUARY 14, 2025.

CIVIL APPLICATION (CAF) NO. 1955 OF 2024

. By this Application, the Appellant is seeking
condonation of delay of 49 days in filing the First Appeal under
Section 173 of the Motor Vehicles Act, 1988.

2. The delay is properly explained in paragraph Nos.2
and 3 of the Application. The Respondent Nos.1 and 2/Original
Claimants have not filed reply opposing the present Application
and none appeared on behalf of the Respondent Nos.3 and 4,
though served.

3. In my considered opinion, delay deserves to be
condoned in the interest of justice, for the reasons mentioned in
the Application.

4. Civil Application stands disposed of accordingly.
5. Appeal be registered.

FIRST APPEAL (ST) NO. 4173 OF 2024

- . Heard. **Admit.** Call R & P
2. Mr. Alaspurkar, learned Counsel, waives service of notice on behalf of the Respondent Nos.1 and 2.
3. Issue fresh notice to the Respondent Nos.3 and 4.
4. The Appellant is permitted to serve the Respondent Nos.3 and 4 by all permissible modes, in addition to regular mode of service.

CIVIL APPLICATION (CAF) NO. 1956 OF 2024

- . This application is filed for grant of stay to the execution of Judgment and Award dated 2/9/2023 passed by the Motor Accident Claims Tribunal, Amravati in MACP No. 106/2020.
2. In view of the fact that entire amount is deposited, as directed by this Court vide order dated 29/7/2024, ad-interim stay granted vide this order, is hereby confirmed and shall operate till final disposal of the Appeal, without prejudice to the right of the Respondent Nos.1 and 2 to seek withdrawal of amount of compensation.
3. Civil Application stands disposed of accordingly.

CIVIL APPLICATION (CAF) NO. 531 OF 2025

. By this Application, Respondents/Original Claimant Nos.1 and 2 are seeking permission to withdraw the amount of compensation deposited by the Appellant with this Court.

2. The learned Counsel for Appellant has a serious objection to this. She points out that deceased was travelling in the tractor by sitting on the mudguard, which is not permissible.

3. The learned Counsel for Respondent Nos.1 and 2 submits that in such cases pay and recover principle can be resorted to and since admittedly the vehicle was insured with the Appellant, permission to withdraw an amount should be granted.

4. I have perused the Judgment delivered by the learned Tribunal. *Prima facie* the computation of compensation appears to be correct, however, having regard to the circumstances in which the accident has occurred, in my considered opinion, interest of justice will be subserved by permitting the Respondent Nos.1 and 2 to withdraw 50% of the amount of compensation along with accrued interest.

5. In view of the aforesaid, the Respondent Nos.1 and 2 are permitted to withdraw 50% of the amount of compensation along with accrued interest, on furnishing usual undertaking.

6. Civil Application stands disposed of accordingly.

(ROHIT W. JOSHI, J.)