

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 652 OF 2024
IN
FIRST APPEAL(ST) NO. 34602 OF 2023

M/s. Elmach Packages (India) Pvt. Ltd., Thane ...Applicant
Versus
United India Insurance Co. Ltd., Mumbai And ...Respondents
Anr.

Ms. Sindhu Kotian a/w Mr. Akash Gaonkar i/b Legalseve and Asso. for
the Applicant.
Ms. Varsha Chavan for Respondent No.1.

CORAM : R.M. JOSHI, J.
DATE : 18th FEBRUARY, 2026

P.C. :

1. The learned Counsel for the Applicant placed on record affidavit of service indicating service of present application being done on Respondent No.2/original Claimant. None for this Respondent is present.
2. Heard learned counsel for the Applicant/Appellant and Respondent No.1-insurer.
3. It is the case of the owner of the offending vehicle that the impugned Judgment and Award came to be passed without service of summons. It is claimed that though report is filed by the bailiff that no one was available on the given address, but the owner is served on the same address in Execution proceedings.
4. It is contended that since the judgment came to be passed ex-

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parte, there were no occasion for the Applicant/Appellant to challenge the same until notice of execution was received.

5. The learned counsel for the Respondent-insurer opposes the application.

6. As per contention in the application, the Appellant/Claimant got knowledge of the proceeding on 04.03.2022 after receipt of summons in Execution Proceedings filed by the Claimant. The Applicant/Appellant applied for certified copies which were received on 29.09.2023. Thereafter, the present application is came to be filed on 13.12.2023.

7. Since the issue is raised by the Applicant with regard to the proper service of notice of the proceeding before the Tribunal and as no prejudice is likely to be caused, in view of the fact that compensation amount has already been paid by the insurer to the Claimants before the Tribunal. The interest of the Claimant therefore is not likely to be affected. Since the delay in filing appeal has been explained satisfactorily, interim application stands allowed in terms of prayer clause (a). Appeal be registered.

8. Issue notice to the Respondents. The learned counsel waives service on behalf of Respondent No.1.

9. Notice of Respondent No.2 is made returnable on 23.03.2026.

10. In addition to usual mode of service, private service is allowed.

(R.M. JOSHI, J.)