

abs

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 90 OF 2011

New India Assurance Co. Ltd. .. Appellant
V/s
Fulsing Shivsing Rajput & Anr. .. Respondents

Mr. S.S. Vidyarthi for the appellant.

CORAM : D.G. KARNIK, J.

DATE : 24TH JANUARY 2011

P.C. :

1. Heard Mr. Vidyarthi for the appellant.
2. Appeal is admitted as to the substantial questions of law mentioned at sr. nos. 1 and 4 of paragraph 6 of the appeal memo. The questions of law are quoted herein below.

- (1) Whether the insurance company can be made party as held liable directly in view of a total absence of such provision under Workmen's Compensation Act?
- (4) Whether for a non-schedule injury, the order of the learned Commissioner holding the Respondent no.1 to

be cent percent disabled was justifiable?

3. Issue notice to the respondents, returnable on 24th February 2011. Notice be sent directly by the Registry by Speed Post subject to payment of necessary charges by the appellant. The appellant shall deposit the charges in the Registry within a week.

4. In addition to the court service, the appellant shall serve the respondents by private notice and file affidavit of service on or before 23rd February 2011. In case of failure of the appellant to comply with this order, the appeal shall stand dismissed without further reference to the Court.

5. Call for R & P. Intimation of R & P be given on telephone in addition to the usual mode of service. Intimation of R & P be sent to the Commissioner for Workmen's Compensation with a direction to send the R & P so as to reach this Court on or before 23rd February 2011.

6. Printing of paper book is dispensed with. The appellant shall however file the paperbook containing the claim application, written statement, copies of the documents

produced and the oral depositions recorded in the Tribunal on or before 23rd February 2011.

5. List the appeal for final hearing at the bottom of the admission board on 24th February 2011.

(D.G. KARNIK, J.)