

IN THE HIGH COURT OF JHARKHAND AT RANCHI
[Civil Miscellaneous Appellate Jurisdiction]
M.A. No. 342 of 2019

National Insurance Co. Ltd. Appellant(s)
Versus

Asik Khan & Ors. ... Respondent(s)

.....
CORAM : HON'BLE MR. JUSTICE KAILASH PRASAD DEO
(Through :- Video Conferencing)

.....
For the Appellant(s) : Mr. Amaresh Kumar, Advocate.
For the Resp. 1 to 5 : Mr. Birendra Kumar, Advocate

.....

06 / 24.06.2020. Heard, learned counsel for the parties.

So far service of notice upon respondent No.6 [**Bijendra Kumar, owner of the offending vehicle**] is concerned, it has been submitted by the process server in his report at Flag- 'U' that notice could not be served as his present address was not found.

As such, learned counsel for the appellant has submitted that let notice upon respondent No.6 [**Bijendra Kumar Yadav, S/o Mahant Yadav, resident of 4B, Lalbanya Garde Apartment, Behind Surendranath Centenary School, Deepatoli, P.O. & P.S.-Namkum, District- Ranchi (Jharkhand), owner of the offending vehicle i.e. Tata Indigo Car bearing Registration No.JH-01BK 7649**] be served through the Officer-in-Charge, Namkum Police Station, Ranchi.

Learned counsel for the claimants/respondents has submitted that even after issuance of notice upon the owner of the offending vehicle in the court below, the owner had not put his appearance, therefore, the case was fixed ex-parte, as such, in view of the judgment passed by the Hon'ble Apex Court in the case of *Kamala Mangal Vayani and Ors. Vs. United India Insurance Co. Ltd. and Ors*, reported in (2011) 1 SCC 574, no notice is required to be issued upon the owner of the offending vehicle rather the Insurance Company may file a case against the owner regarding breach of conditions of the Insurance Policy. Thus, this Court may not delay the disposal of the case as the occurrence is of dated 25.12.2015 and the Award is of dated 29th day of April, 2019, as such, this Court may proceed in accordance with the above judgment passed by the Hon'ble Apex Court.

Learned counsel for the appellant has sought sometime to get himself prepared in the brief.

Put up this case on 8th July, 2020.

In the meantime, office is directed to issue fresh notice upon respondent No.6 [**Bijendra Kumar Yadav, S/o Mahant Yadav, resident of 4B, Lalbanya Garde Apartment, Behind Surendranath Centenary School, Deepatoli, P.O. & P.S.-Namkum, District- Ranchi (Jharkhand), owner of the offending vehicle i.e. Tata Indigo Car bearing Registration No.JH-01BK 7649**] through the Officer-in-Charge, Namkum Police Station.

Unutilized copy may be utilized for the same.

Officer-in-Charge, Namkum Police Station is directed to file affidavit regarding service of notice upon respondent No.6 by 6th July, 2020.

Let a copy of this order be communicated through "FAX" to the Senior Superintendent of Police, Ranchi for necessary compliance at once.

(Kailash Prasad Deo, J.)

Sandeep/R.S.