

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1464 OF 2014
WITH
CIVIL APPLICATION NO.2055 OF 2013
WITH
CIVIL APPLICATION NO.2136 OF 2015

The New India Assurance Company Limited ... Appellant
vs.
Pramod Gopal Nayak and Others ... Respondents

Mr. Milind More, for the Appellant/Applicant.
Mr. T.J. Mendon, for Respondent No. 1 and for the Applicant
No. 2136 of 2015.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **7th OCTOBER, 2015**

P.C.:

. This Appeal is to be disposed of at the stage of admission
by consent as the Appeal involves a short point.

2. This Appeal is directed against the judgment and award
dated 3rd December, 2012 passed by the learned Member, MACT,
Mumbai awarding the compensation of Rs. 17,700/- inclusive NFL
amount and the interest of 7.5% p.a. from the date of the application.

3. On 3rd June, 2008 the claimant/Applicant when he was driving a motor-cycle met with an accident as a dumper bearing No. MH-02-YA-672 from the opposite direction collided with the motor-cycle. After a heavy impact, the Applicant was shifted to the hospital for treatment. He and his wife were treated in OPD. He incurred the expenses for the medical treatment and conveyance and special diet of Rs. 26,695/-. Thereafter, he filed a claim for compensation to the Insurance Company and defended the claim by filing the written statement. The claimant tendered his evidence. The learned Member, MACT, Mumbai after considering all the factors, passed the award.

4. In this case, no order under Section 140 of the Motor Vehicle Act was passed as there was no permanent disability caused to the Applicant. The learned counsel for the Insurance Company has submitted that the amount granted to the claimant is excessive as the Applicant could not prove his medical expenses. It is further submitted that the Applicant was at fault and not the driver of the dumper. It is submitted that the Applicant overtook another vehicle and dashed the dumper and therefore he met with an accident as he was negligent.

5. The learned counsel for the Respondent/original Applicant submitted that the Applicant has sustained the head injury and therefore he was treated for a long period and hence the compensation granted by the learned Member is justified.

6. On perusal of the award and the reasons mentioned by the learned Member, M.A.C.T., Mumbai, it appears that the Applicant did not sustain any permanent disability. It was a CLW and he was taken to the hospital for treatment. He was admitted only for two days in the hospital i.e. from 3rd June, 2008 to 5th June, 2008. The learned Member of the Tribunal has granted the compensation only towards the medical bills i.e. Rs. 15, 680/- and the amount of Rs. 2,000/- was given for conveyance and for special diet. The appreciation and the reasoning given by the learned Member is correct and valid. The compensation amount given is just and adequate and hence, no interference is required. Hence, First Appeal No. 1464 of 2014 stands dismissed.

7. In view of the above, the Civil Application No. 2055 of 2013 stands disposed of.

8. The amount which is deposited for Appeal if any, to be transferred to the Tribunal and the Respondent/original Applicant is allowed to withdraw the same after the proof of his identity.

(MRS.MRIDULA BHATKAR, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.