

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

RAST NO.27450 OF 2016
IN
F.A.NO.970 OF 2002
New India Assurance Company Limited through Divisional
Manager Vs. Hussainbhai Akbarbhai Virdewala and others.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
--	---------------------------

Mr.M.A.Deshmukh, advocate holding for
Mr.S.G.Chapalgaonkar, advocate for the applicant
Mr.S.P.Brahme, advocate for Respondent No.1.

CORAM : S.V.GANGAPURWALA, J.
Date : 22.12.2016.

PER COURT :

1. Heard.
2. This Court under order dated 29.10.2015 had partly allowed the appeal, directing the present petitioner and Respondent Nos.2 and 3 to jointly and severally pay compensation of Rs.7,24,200/- (Rupees seven lacs twenty four thousand two hundred only) to the claimant inclusive of no fault liability along with interest at the rate of Rs.7.5% p.a. from the date of decision till realisation.
3. The learned counsel submits that the amount towards non-pecuniary damages awarded is also required to be apportioned

commensurate with the negligence of the appellant/claimant. It appears that the amount towards non-pecuniary damages are awarded towards the medical expenses, cost of litigation and pains and suffering. The amount awarded under the said Head is a modest amount, as such I am not inclined to consider the said aspect.

3. At the time of passing the said order, this Court lost sight of the order dated 29.6.2009, passed in C.A.No.2582/2005, wherein the Court had restored the appeal which was dismissed in default on condition that the appellant/claimant shall not claim interest from the date of filing appeal till the date of said order i.e. 29.6.2009.

4. For fault of the Court, no party should suffer. Through oversight, the said order could not be noticed at the time of passing the final judgment.

5. In view of the above, following sentence be added in para 17 after the word realisation. *“However, the claimant shall not be entitled for the said interest from the date of filing the First Appeal No.970/2002 till 29.6.2009”*

6. Save and except the above, the rest of the order stands.

7. The Review Application is accordingly disposed of.

8. It is more than a year the judgment has been delivered by this Court, it is expected that the Insurance Company shall make

the payment expeditiously.

(S . V . GANGAPURWALA , J .)

Dt.22.12.2016.
asp/office/Revst27450.16