

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 258 OF 2017
IN
FIRST APPEAL (ST) NO. 19640 OF 2016**

Noorjaha Amirjan Shaikh & Ors	...Applicants
<i>Versus</i>	
The New India Assurance Co Ltd	...Respondent

Mr Amol Gatne, for Applicants Nos.1 to 4.
Mr Shrikant M Dange, for the Respondent.

CORAM: G.S. PATEL, J
DATED: 4th July 2017

PC:-

1. This is an application by Respondents Nos.1 to 4 for withdrawal of the entire amount deposited (a little over Rs 13 lakhs). The claim arises out a fatal accident. The Applicants are the legal heirs of the deceased. He was a vehicle cleaner. He was knocked down by a speeding Tempo.

2. The Tribunal awarded compensation of Rs.9,38,000/- including NFL amount with interest at 9%. The argument is that the Tempo in question was not involved. This statement is made on the basis that the Tempo driver was arrested several days later on a

supplementary statement made by the deceased's brother to the police. What this overlooks is that it is not only on the basis of the later statement that the Tempo No.MH-43-F-3190 was said to be the one that knocked down the deceased. The evidence *prima facie* indicates that the police carried out their investigation. They collected evidence. They seized this Tempo. The vehicle was then examined to find whether the accident occurred to a mechanical fault. There was no mechanical fault detected. The driver was arrested, one Ramesh Singh. Although his statement was held not to be admissible, the Investigating Officer concluded that the accident was due to involvement of the vehicle.

3. Having regard to these circumstances, nature of the complaint, I will permit a withdrawal of an amount of Rs.10,00,000/- without security or furnishing undertaking along with the proportionate interest. The MACT will permit the withdrawal on these terms and it will act on an authenticated copy of this order. The balance is to be invested if not already done. In addition, the amount of Rs.25,000/- deposited in this Court as the statutory deposit is to be transferred to the MACT, Mumbai where it also to be deposited in any nationalised Bank. Liberty to Respondents Nos.1 to 4 to apply for withdrawal of a further amount if so advised.

(G. S. PATEL, J.)