

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL (ST) NO. 3606 OF 2014
WITH
CIVIL APPLICATION NO. 740 OF 2014**

National Insurance Co Ltd	...Appellant
<i>Versus</i>	
Ramrikh Brijnandan Kapar & Ors	...Respondents

Mr R Mehta, *i/b KMC Legal Venture, for the Appellant.*
Mr JJ Mendon, *for the Respondents.*

CORAM: G.S. PATEL, J
DATED: 18th July 2017

PC:-

1. The only modification, in my view, that is required to this decree under appeal is to direct the insurer appellant to pay and then to recover the amount from the insured. The award is in the amount of Rs.5,21,000/- including the NFL amount, and carries interest at the rate of 7.5% per annum from the date of the application.

2. It is not necessary to discuss the merits of the appeal in any great detail because of what is stated in paragraph 4 of the impugned judgment and which is entirely uncontroverted and incontrovertible. This is a case of driving under the influence of alcohol. The driver

has been charged under Section 185 of the Motor Vehicles Act, 1988. There is no question that the owner of the vehicle is liable. The only modification, as I said, is to permit the insurer to pay and then to recover the amount awarded.

3. The only addition that I would make is to modify the amount awarded towards funeral expenses and increase this from Rs.10,000/-, which I consider to be very low, to Rs.25,000/-. The decree is modified accordingly.

4. The entire amount with accrued interest has been deposited.

5. The statutory deposit is also to be transferred to the MACT, Mumbai with interest accrued, if any, and will also be invested in a fixed deposit with any nationalized bank.

6. The MACT, Mumbai will permit the withdrawal of both amounts and accrued interest on production of an authenticated copy of this order.

7. The First Appeal is disposed of in these terms. There will be no order as to costs.

8. The Civil Application does not survive and is disposed of as infructuous.

(G. S. PATEL, J.)