

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1997 OF 2017
IN
FIRST APPEAL ST NO. 19044 OF 2014

Suvarna Bandu Kamthe & Ors ...Applicants

Versus

The New India Assurance Co Ltd through ...Respondent
Mumbai Regional Office - I

Mr Abhijit B Kadam, *for the Applicants/original respondents Nos. 1 to 4.*

Mr Ketan Joshi, *i/b Sandeep S Jinsiwale, for the Respondent.*

CORAM: G.S. PATEL, J

DATED: 26th July 2017

PC:-

1. The appeal is by the insurer against an award dated 2nd December 2013 in a claim arising out of a fatal motor accident filed under Section 166 of the Motor Vehicles Act 1988. The original claim was for Rs. 30 lakhs. The amount awarded including NFL is Rs. 29,50,000/-.

2. The deceased was on a motorcycle at about 11.05 p.m. on the Sasvad Pune road when a tempo traveller, being driven without due care and caution, moved to the wrong side of the road and collided

with the motorcycle. The deceased was thrown off the motorcycle and declared dead on arrival at Sasvad Rural Hospital. The deceased was about 29 years old at that time. He was a JCB operator. He also had some agricultural income.

3. Apart from anything else, Mr Jinsiwale reserves his strongest arguments for this portion of the award by saying that there is no adequate material on which to conclude that the claimants were entitled to Rs. 2 lakhs as managerial loss.

4. Having regard to these circumstances, and since the entire amount with interest has been deposited, I will permit the withdrawal of an aggregate amount of Rs. 27,50,000/- with accrued interest without security or interest. The remaining amount will be invested in a fixed deposit with any nationalized bank.

5. The statutory deposit of Rs. 25,000/- is also to be transferred to the MACT within two weeks from today and the same is also to be invested in a fixed deposit with any nationalized bank.

6. The MACT will permit such withdrawal on production of an authenticated copy of this order.

7. The civil application is disposed of in these terms with no order as to costs.

(G. S. PATEL, J)