

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL (ST) NO. 13947 OF 2017
WITH
CIVIL APPLICATION NO. 1831 OF 2017

The New India Assurance Co Ltd	...Appellant
<i>Versus</i>	
Ashik Dayabji Ramparia & Ors	...Respondents

Mr Devendranath S Joshi, *for the Appellant/Applicant.*
Mrs Varsha Chavan, *for the Respondents Nos. 1 to 4.*

CORAM: G.S. PATEL, J
DATED: 27th July 2017

PC:-

1. The facts are set out in the judgment delivered today in First Appeal No. 1 of 2015. Here the claimant was the rider of the motorcycle. His father, who was riding pillion, died in the same accident.

2. The same issue as regards the permit was taken in this case. I have rejected the submission. The present case is one of injury. The claimant was admitted to the Sanjivani Hospital on 2nd November 2006. He was operated for a fracture and he was an indoor patient till 17th November 2006. He submitted his medical bills. He had a

grade II compound fracture of the humerus with rapid nerve palsy, abrasion and other injuries. He says he has difficulty in moving. He has had body implants. He is unable to carry on his effective work as a mason. His permanent partial disability was estimated at 48% based on the evidence of one Dr Naresh Khanna. The Tribunal awarded him Rs. 25,000/- towards future medical expenses and then proceeded to award an amount of Rs. 3,93,000/- as compensation including NFL.

3. In my view, there is really no reason to interfere with any part of the award. The MACT has correctly assessed every aspect of it including taking into account that the fracture was to the right hand and, therefore, taken a slightly higher amount towards the disability compensation.

4. I do not think it is possible to fault the conclusions of the Tribunal. The principles that have been established by the Supreme Court in *Arvind Kumar Mishra vs New India Assurance Co Ltd*¹ regarding the duty of the Court to provide reasonable restitution to the claimant have been followed in letter and in spirit.

5. The statutory deposit of Rs. 25,000/- is to be transferred to the MACT, Mumbai within two weeks from today.

6. The claimant is entitled to withdraw the entire amount with all accrued interest. The MACT will permit such withdrawal on production of an authenticated copy of this order.

¹(2010) 10 SCC 254.

7. The appeal is dismissed. 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)