IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST.) NO. 14476 OF 2016
WITH
CIVIL APPLICATION NO. 1166 OF 2017
IN
FIRST APPEAL (ST.) NO. 14476 OF 2016

Birappa Ramchandra Gangmai @ Pujari & Ors. ...Applicants

IN THE MATTER BETWEEN

National Insurance Company Limited ...Appellant

Versus

Birappa Ramchandra Gangmai @ Pujari & Ors. ...Respondents

WITH

FIRST APPEAL (ST.) NO. 14476 OF 2016
WITH
CIVIL APPLICATION NO. 2990 OF 2016
WITH
CIVIL APPLICATION NO. 2991 OF 2016
IN
FIRST APPEAL (ST.) NO. 14476 OF 2016

National Insurance Company Limited ...Appellant

Versus

Birappa Ramchandra Gangmai @ Pujari & Ors. ...Respondents

……

Mr. Nikhil Mehta i/b. KMC Legal Venture for the Appellant.
Mr.Ashok B. Tajane for Respondent Nos. 1 to 5 and Applicants CAF No. 1166 of 2017.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATED: SEPTEMBER 12, 2017

P.C. :

1. Heard. Admitted.

2. By consent of the parties, appeal is heard finally and disposed of at the stage of admission, as a short issue is involved.

3. This appeal is directed against the judgment and award dated 16.10.2015 passed by the learned Member, Motor Accident Claims Tribunal, Pandharpur, in M.A.C.P. No. 111 of 2008.

4. The accident occurred on 19.12.2001. The deceased Mahadevi was standing on the extreme side of the road and luxury bus no. MH-15/B-9902 came in a high speed and due to dash given by the said bus, she sustained multiple grievous injuries and died on the spot. The appellant/Insurance Company initially was not made a party to the proceedings and the award dated 12.09.2005 directing to pay Rs. 1,50,000/- alongwith interest @ 6% p.a. was passed against the owner i.e. respondent no.1. Accordingly, respondent no.1 had appeared and filed his written statement. Respondent no.1 moved an application for amendment and thereafter, the appellant/Insurance Company was added as a party opponent.

5. Learned counsel for the appellant/Insurance Company submits that the appellant/ Insurance Company was impleaded in the proceedings in the year 2014 and, therefore, the appellant/Insurance Company is not liable to pay the interest from the date of the filing of the claim application i.e. 27.11.2002, but the appellant/Insurance Company is ready to pay the interest from the year 2014.

6. Learned counsel for the applicants/original claimants while opposing, has argued that the vehicle was insured with the appellant/Insurance Company, however, in order to put an end to the controversy and after obtaining instructions from the original claimants, he has submitted that the claimants are ready to waive the claim of their interest for the period from 27.11.2002 to 27.11.2006.

7. I am of the view that the statement made by the learned counsel for the original claimants is reasonable and hence, it is accepted. After going through the judgment and award and hearing the submissions of the learned counsel of both the sides, it appears that though the appellant/Insurance Company has challenged the entire award on different counts, the learned Member, M.A.C.T. has passed a well reasoned order. At this stage, the only point can be considered is a

period of interest. The interest awarded by the learned Member is @ 6% p.a., which cannot be reduced.

8. In view of the above, appeal is partly allowed to that extent and the remaining order of the tribunal is maintained and confirmed. The appellant/Insurance Company is not liable to pay the interest amount for the period from 27.11.2002 to 27.11.2006.

9. Learned counsel for the appellant/Insurance Company submits that the amount is deposited by the Insurance Company, hence, the said amount be allowed to be withdrawn by the appellant/ Insurance Company.

10. The appellant/Insurance Company is allowed to withdraw the interest amount deposited by them for the period from 27.11.2002 to 27.11.2006 and the remaining amount is allowed to be withdrawn by the original claimants. Further, the statutory amount of Rs. 25,000/- which was deposited in this Court at the time of filing of this appeal shall be transferred to the Motor Accident Claims Tribunal, Pandharpur.

11. First Appeal is partly allowed and disposed of accordingly.

12. In view of disposal of the First Appeal, nothing survives in the Civil Applications and the same are disposed of as such.

(MRIDULA BHATKAR, J.)