

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL ST NO. 16417 OF 2014
WITH
CIVIL APPLICATION NO. 2431 OF 2014

The New India Assurance Co Ltd	...Appellant
<i>Versus</i>	
Tairunisha Sajid Ali Shaha & Ors	...Respondents

Ms KR Trivedi, *for the Appellant.*
Mr TJ Mendon, *for the Respondents.*

CORAM: G.S. PATEL, J
DATED: 12th July 2017

PC:-

1. The only modification required in this order, in my view, is to permit the insurer to pay and then recover the amount awarded, which is Rs. 2 lakhs including No Fault Liability and interest at the rate of 7.5% per annum. The claim is under Section 166 of the Motor Vehicles Act in a fatal accident case. This was the case of a minor's death. Pending the Appeal, the father of the deceased, Applicant No.2, died. The minor Uma was in the grounds of the Mohamadiya Masjid, Garden Gate near Gazibaba Darga, Kurla when the offending vehicle came at high and excessive speed and ran over her head. She died on the spot.

2. There is no reason to interfere with the order. The awarded amount is Rs. 2,00,000/-. This is modest. Uma was three years old at that time. If anything, the amount awarded for loss of estate and funeral expenses clubbed together is on the lower side, being taken at Rs.25,000/-. The amount should be increased by Rs.75,000 and the aggregate amount should be Rs.3,00,000/-. With this modification, i.e., the amount of Rs. 3,00,000/- and allowing the insurer to pay and recover, the Appeal is disposed of. There will be no order as to costs.

3. The decree will stand modified accordingly.

4. The amount of statutory deposit is also to be transferred to the MACT, Mumbai within two weeks from today and invested in a fixed deposit with a nationalised bank. The claimants will be entitled to withdraw this amount as well.

5. The MACT will permit the withdrawal on production of an authenticated copy of this order.

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

(G. S. PATEL, J)