

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL (ST) NO. 22840 OF 2011
WITH
CIVIL APPLICATION NO. 3790 OF 2011

National Insurance Company Limited	...Appellant
<i>Versus</i>	
Ramlal Chavan & Ors	...Respondents

Mr R Mehta, i/b KMC Legal Venture, for the Applicant/Appellant.

CORAM: G.S. PATEL, J
DATED: 28th June 2017

PC:-

1. Mr Mehta appears for the Appellant/Insurer. He points out that the finding of fact rendered by the Court below is that the driver of the vehicle that the Appellant had insured was intoxicated at the time. The claim was under Section 166 for Rs.5 Lakhs. The Application was Ramlal Chavan. On 28th October 1999, his son, Dilip, was travelling in a contract bus for carrying workers. The bus was within the limits of village Potgaon on Murbad, Kalyan-Malshej Road when it met with an accident at about 1.20 a.m. in the morning. It collided with a truck that was stationary by the roadside. The bus driver was one Ravindra Surose. He was drunk. The

passengers pleaded with him to drive slowly and carefully. In his inebriated state, he ignored these pleas.

2. Surose's negligence being proved, the Tribunal granted compensation of Rs.2,73,300/- with interest at the rate 6% per annum. Mr Mehta is correct that this amount is not worth the cost of this Appeal. He submits that the Appellant's purpose will be met if the decree is partly modified so as to permit the Appellant-Insured, original Respondent No. 3, to pay the amount and then to recover it from the owner, Respondent No. 2, Radhakrishhan Ghule. The suggestion is reasonable and it seems to be one that is in the interest of all concerned.

3. The decree is modified to this limited extent that the Opponent No. 3 will pay the amount awarded and will then be entitled to recover the entire amount and interest from Respondents No.2, including in execution proceedings before the Tribunal itself.

4. It is clarified that the Award against Respondent No. 3 is not of the entire amount of Rs.2,73,300/- but only of 70% of this amount.

5. In other respects, the Judgment and Award is confirmed.

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

7. The statutory deposit of Rs.25,000/- is also be transferred to the MACT, Kalyan.

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

(G. S. PATEL, J.)