

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.1871 OF 2011

Shivram Balu Gopal And Another	...	Appellants
Versus		
Bajaj Allianz Insurance Co. Ltd. And Another	...	Respondents

.....

Mr. Shashank Mangle for the Appellants.
Mr. Vineet Shetty i/b M.M. Sathaye for Respondent No.1.

.....

CORAM : S.C. GUPTE, J.

DATE : 24 APRIL 2017

P.C. :

. The First Appeal challenges an order passed by Motor Accident Claims Tribunal, Ratnagiri, on M.A.C.P. No.90 of 2009. It is apparent from the impugned order that all the issues framed in the matter have been practically decided in favour of the Appellants, save and except the issue of rash and negligent driving. The compensation, however, is denied to them solely on the ground that this petition, which has been purportedly filed under Section 163-A of Motor Vehicles Act (the "Act") , could not be entertained, since the income of the deceased son of the Applicants was Rs.40,000/- per annum. A perusal of the certified copy of the claim petition makes it clear that it was an application under Section 166 of the Act and what was claimed in the petition was a sum of Rs.10,00,000/- plus interest. The issue concerning rash and negligent driving against the deceased son of the Applicant was not considered purportedly on the

ground that the claim was under Section 163-A of the Act.

2 In the premises, the impugned order will have to be set aside and matter will have to be remanded back to the Trial Court, only as regards to Issue Nos.7 and 8 recorded in the impugned order dated 14 June 2011. Motor Accident Claim Petition No.90 of 2009 is remanded to M.A.C.T., Ratnagiri, for consideration of Issue Nos.7 and 8 set out in the impugned order afresh and in accordance with law. Since the evidence on the claim petition has been led before it, M.A.C.T., Ratnagiri, is directed to dispose of the claim petition as expeditiously as possible and in any event within a period of three months after the parties appear before it with this order. The Appellants and the Respondents shall appear before Motor Accident Claims Tribunal, Ratnagiri, with an authenticated copy of this order on **6 June 2017**.

3 Office is directed to remit the records and proceedings of the claim petition of Motor Accident Claims Tribunal, Ratnagiri, expeditiously.

(S.C. GUPTE, J.)