

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

FIRST APPEAL NO.1264 OF 2016

Reliance General Insurance Co. Ltd. ...Appellant

Versus

Ms.Neha Pukhraj Pokhrana & Anr. ...Respondents

**WITH
CIVIL APPLICATION NO.2657 OF 2017
IN
FIRST APPEAL NO. 1264 OF 2016**

Ms.Neha Pukhraj Pokhrana ...Applicant

IN THE MATTER BETWEEN

Reliance General Insurance Co. Ltd. ...Appellant

Versus

Ms. Neha Pukhraj Pokhrana & Anr. ...Respondents

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Ms. Deepika Prabhala i/b. Res Juris for the Appellant.
Mr.Bharat Gadhavi i/b. Mr.Surendra V. Sonawane for Respondent No.1
and the applicant in CAF No. 2657 of 2017.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: SEPTEMBER 14, 2017**

P.C. :

1. In this appeal, respondent no.1, who is the original claimant, has moved an application for withdrawal of the compensation amount deposited by the appellant/Insurance Company. At the time of hearing of the application for withdrawal of the compensation amount, it is found that a very short issue is involved in the matter and it can be disposed of. The First Appeal is already admitted.
2. By consent of the parties, the appeal is taken up for final hearing.
3. The First Appeal is filed against the judgment and award dated 12.01.2016 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai, in M.A.C.P. No. 371 of 2011.

Brief facts of the case are as follows:

4. On 16.12.2010, the respondent/original claimant was crossing the road at Marine Lines at 7.15 p.m. One motor car/Honda City bearing registration no. MH-43-R-4085 came speedily and driven in rash and negligent manner and knocked down the respondent /claimant due to

which she sustained multiple injuries and fractures to the body. She was immediately shifted to the hospital for medical treatment. She had suffered physical trauma and mental shock. Opposite party, i.e. the owner of the vehicle though served did not appear before the Court. The Insurance Company appeared and contested the claim on the ground that the driver of the offending vehicle was not holding a valid and effective driving licence at the time of the accident. Thereafter, she filed an application for compensation under Section 166 of the Motor Vehicles Act, 1988 and the learned Member after considering the evidence of the claimant and defence taken by the Insurance Company awarded compensation of Rs. 23,07,000/- alongwith interest @ 9% p.a. from the date of filing of the application. Being aggrieved by the said judgment and award, the appellant/Insurance Company filed this First Appeal.

5. The point of determination is whether the compensation awarded by the tribunal is excessive and is to be reduced? The answer is No.

6. The learned counsel for the appellant/Insurance Company has submitted that the Insurance Company challenges the order on the ground of quantum. She has further submitted that the learned

Member, M.A.C.T. has granted excessive amount under the heads of pain and suffering and loss of amenities of life i.e. Rs. 1 lakh and Rs. 3 lakhs respectively. She has further submitted that under the head of loss of marriage prospects, the learned Member has erroneously granted Rs. 50,000/- and hence, the amount is to be reduced.

7. Learned counsel for the applicant/claimant opposed this appeal and supported the claim awarded by the tribunal.

8. Heard submissions. Perused the judgment and award passed by the learned Member, M.A.C.T., Mumbai. It is a very unfortunate accident, wherein a young girl of 19 years old got her face completely disfigured. The respondent/claimant has entered in the box and gave evidence. She has filed a detailed affidavit disclosing injuries sustained by her. There was a massive fracture of maxilla, left and right maxilla. Her perinasal sinuses and thyroid region were damaged. Her upper incisor teeth rooted out (loss of teeth). There was a complete disfigurement on the face. She lost her sensory abilities of smelling and hearing. She mentioned that her facial expressions have changed alongwith disfigurement of face due to nerve paralyses on left side of face. She lost her face-identity completely. She was taken to Bombay

hospital for treatment. She was there for 15 days. She has stated that there was unbearable pain and suffering due to injuries sustained by her. She has produced a certificate of Dr. Nootan Kumar Sharma, Neuro Surgeon, who treated her and issued disability certificate on 19.11.2014. Also, one Dr. Naresh Khanna had assessed her permanent partial orthopedic disability to the tune of 52%. Dr. Khanna issued the disability certificate on 23.12.2014. She had enumerated the functional disabilities of her organs. In the cross-examination conducted by the counsel of the appellant/Insurance Company, her evidence in respect of disabilities, injuries and suffering remained as it is, nothing was achieved. She was a young girl of 19 years old. Undoubtedly, she has suffered physically and mentally trauma to a great extent and disfigurement of the face matters a lot to any person, especially more to an unmarriageable girl and thus, I am of the view that the compensation awarded under different heads by the tribunal cannot be reduced in view of the nature of injuries sustained by the claimant and hence, the appeal fails. Appeal is accordingly dismissed.

9. In view of the dismissal of the appeal, Civil Application No. 2657 of 2017 filed for withdrawal by the claimant is allowed. 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, Mumbai.

10. Parties to act upon an authenticated copy of this order.

(MRIDULA J. BHATKAR, J.)