

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

FIRST APPEAL NO. 175 OF 2005

The Municipal Corporation of Greater Bombay ...Appellant

Vs.

Shri Sadashiv Sooru Hegde & Anr. ...Respondents

Mr.S.S. Pakale with M.R. Bhoir for Appellant.

Mr.S.A. Shetty I/b. U.S. Shetty for Respondent No.2.

CORAM : S.C. GUPTE, J.

13 APRIL 2017

P.C. :

Heard learned Counsel for the parties.

2 This first appeal challenges an order passed by the MACT, Mumbai in Application No.2111 of 1991. The Respondents' (original Applicants') application before the MACT was for recovery of compensation on account of their son's death in a motor accident, which occurred on 16 April 1991, involving a lorry owned by the Appellant (original opposite party). The MACT, by its impugned order, held the opposite party to be liable to compensate the Applicants and ordered compensation of Rs.2 lakhs inclusive of no default liability to the Applicants with interest at the rate of 9% per annum from the date of filing of the application till realization.

3 The only ground, on which the present first appeal is pressed before the court, is that the vehicle involved in the accident was described as a sky colour truck by the witness, whereas the evidence led by the Appellant shows the vehicle to be of gray colour. There is no contradiction

in the evidence that the vehicle involved in the accident bore number MH 7870 (the correct number being MH 01-H 7870). This vehicle admittedly belongs to the Municipal Corporation. There is no evidence on the part of the opposite party that this vehicle, bearing registration NO. MH 01-H 7870, was not involved in the concerned accident. In the impugned order, an award passed by the MACT has extensively analyzed all evidence placed before it and come to the conclusion that the offending vehicle owned by the opposite party was involved in the accident. The appreciation of evidence is fair and proper and does not call for any interference in appeal at the hands of this court. It is secondly submitted by Mr.Pakale for the Appellant Corporation that the MACT has awarded full compensation in the present case. It is submitted that considering the fact that the deceased son of the Applicants was not married at the time of his death, 50% compensation ought to have been awarded. There is no merit in this contention as the compensation of Rs.2 lakhs awarded by the MACT is just and fair and does not call for any interference. It is lastly submitted by Mr.Pakale that the interest ordered at the rate of 9% per annum is excessive. Even this contention has no merit and is rejected.

6 In the premises, the appeal is dismissed. The Appellant Corporation shall pay costs quantified at Rs.50,000/- to the Respondents.

7 Learned Counsel for the Respondents states that Respondent No.1 has died in the interregnum and that the only legal heir of the deceased is now Respondent No.2. In the premises, the compensation and costs awarded today shall be paid to Respondent No.2.

(S.C. GUPTE, J.)