IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

914 CIVIL REVISION APPLICATION NO.136 OF 2019

SHITAL DEEPAK KHEMNAR AND OTHERS
VERSUS
THE MAHARASHTRA STATE ROAD TRANSPORT CORPORATION,
SHAHAPUR DEPOT, SHAHAPUR, DIST.THANE AND OTHERS
...
Advocate for Applicants : Shri K.N. Shermale
AGP for Respondent – State : Shri S.K.Tambe
...

CORAM : P.R.BORA, J.
DATE: 30th July, 2019

PER COURT:-

1 The present Civil Revision Application is filed against the order passed by the Taxing Officer of this Court on 19.06.2019. The Taxing Officer has directed the present applicants to pay deficit Court fees of Rs.33,430/- within a period of two weeks from the date of the said order.

2 The present applicants have preferred First Appeal (Stamp) No.17585 of 2019, against the Judgment and award passed in Motor Accident Claim Petition No.42 of 2015. In the said Claim Petition the present applicants were respondent Nos.3A to 3C. The Motor Accident Claims Tribunal has passed an award in the said matter thereby directing respondent Nos.1, 2, 3A to 3C and 4 to pay the compensation of Rs.16,07,000/- to the claimants

therein jointly and severally together with interest @ 9% p.a. from the date of filing of the petition till realization of the said amount.

3 The learned Counsel for the applicants submitted that the applicants have preferred the Appeal against the said award only to the extent of the finding recorded by the Tribunal holding deceased Deepak Dagdu Khairnar to be negligent to some extent in occurrence of the said accident. The learned Counsel submitted that the quantum of compensation is not disputed by the applicants. In such circumstances, the Taxing Officer shall not have insisted for payment of advalorem Court fees on amount of award. The learned Counsel invited my attention to the order passed by this Court in Civil Revision Application No.34 of 2013.

4 Having regard to the view taken by this Court in Civil Revision Application No.34 of 2013, decided on 27.02.2013 and having regard to the averments in the present application and the purpose of filing the First Appeal, it appears to me that the Taxing Officer has committed an error in asking the applicants to pay advalorem Court fees on the amount of the award as has

been passed by the Motor Accident Claims Tribunal. The impugned order dated 19.06.2019 passed by the Taxing Officer, therefore, deserves to be set aside and is accordingly set aside. The Taxing Officer shall levy the Court fees having regard to the prayer made in the First Appeal which can be only to the extent of Rs.200/-.

5 Civil Revision Application stands allowed in the aforesaid terms.

(P.R.BORA)
JUDGE

SPT