

Amk

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

**FIRST APPEAL (STAMP) NO. 25093 OF 2017
WITH
CIVIL APPLICATION NO. 509 OF 2018
IN
FIRST APPEAL (STAMP) NO. 25093 OF 2017**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. Nikhil Mehta I/b KMC Legal Venture for the Appellant.
Mr. S. A. Rajeshirke for Respondent No.1.

CORAM : K. K. TATED, J.
DATE : 3rd APRIL, 2019.

P. C. :

1. Not on board. At the request of learned Counsel for the Appellant, taken on production board.
2. Heard learned Counsel for the parties.
3. Both the Counsel submit that the matter is settled out of Court. They tendered Consent Terms dated 03.04.2019 duly signed by Claimant as well as Appellant and their respective Advocates.
4. Learned Counsel for the Respondents submits that Respondent No.1-original Claimant is present in Court. He entered in the witness box. He admits the contents of the Consent Terms and the execution of the same. Hence, the Consent Terms are taken on record and marked 'X' for

identification which reads thus:

"CONSENT TERMS

- 1 *The Appellant, herein has filed the abovementioned First Appeal, challenging the Judgment and Award in MACP-320 OF 2014, by which the Appellant has been held liable to pay the compensation of Rs. 2,87,300/- inclusive of N.F.L. amount /- along with interest @ 7%.*
- 2 *The Respondents No.1 is the original claimant.*
- 3 *Considering the issue involved in the Appeal being limited to the point of quantum of compensation payable, the Appellant and the Respondent No:1 have decided to compromise the matter. The Claimant feels it appropriate that the matter should be settled at this point of time and therefore, the parties hereto are entering into the present consent terms.*
- 4 *The Appellant has in terms of the ad-interim order dated 24.08.2018 deposited a sum of Rs 2,60,410/- before the Motor Accident Claims Tribunal @ Kolhapur. The Appellant has also deposited an amount of Rs 25,000/-, towards conditional deposit at the time of filing of the above First Appeal before this Hon'ble Court. The Respondent No:1 hereby agrees to compromise the matter, by accepting the amount of Rs 2,50,000/- (Rs. Two Lacs Fifty Thousand only/-) including NFL, Cost, Interest towards full and final satisfaction/settlement of his claim for compensation and in full and final satisfaction of the impugned judgment and award dated 03/05/2017. An amount of Rs 50,000/- towards NFL award is already paid by Appellant to Respondent No:1.*
- 5 *The Respondent No:1, hereby undertakes and gives up any further claim/right/ to seek any further amount as and by way of compensation from the Appellant, by any legal proceedings and further agrees and assures the Appellant, that, he or any other person claiming to be his Legal Heir will not file any other proceedings making any further claim for*

compensation. The Respondent No.1, further agrees if in future, if the above mentioned contingency/claim arises, then, the Respondent No. 1 would be solely liable to defend the same and the Appellant will not be liable to make any further payment, whatsoever.

- 6 Considering the above position, the Appellant hereby wishes to settle the claim of the Respondent/claimants (Respondent No:1), by compromising the matter at this stage since the Appeal is primarily filed on the point of quantum.*
- 7 The Appellant hereby agrees to settle the claim of the Respondent No:1 by making full and final payment of Rs. 2,50,000/- (Rs. Two Lacs Fifty Thousand only/-) including NFL, Cost, Interest towards full and final satisfaction/settlement of his claim for compensation and in full and final satisfaction of the impugned judgment. An amount of Rs 50,000/- towards NFL award is already paid by Appellant to Respondent No:1.*
- 8 The Respondent No:1 will therefore be allowed to withdraw the said amount of Rs 2,00,000/- out of the total amount of Rs 2,60,410 already deposited in the MACT, Kolhapur. The Appellant, will be entitled to withdraw the remaining amount of Rs 60,410/- out of Rs 2,60,410/- which is deposited by them in the MACT, Kolhapur and also Rs.25,000/- deposited by the Appellant U/Sec.173 of M.V.Act,1988 at the time of filing of Appeal. Parties agree to have no objection for the transfer of Rs.25,000/- deposited in this Hon'ble High Court to be transferred to MACT, Kolhapur, with further liberty to the Appellant to have withdrawn the same.*
- 9 The Parties hereby jointly agree for the modification of the Award passed in the MACP No.320 of 2014 @ Kolhapur, in above terms and the request the Hon'ble High Court to modify the Award passed therein accordingly.*
- 10 Since the Appeal being on the point of quantum the Notice to the*

remaining Respondents is obviated.

11 The impugned Judgment and Award be modified in above terms.

12 The amount of Rs.25,000/- deposited by the Appellant towards compliance of Sec.173 of the M.V.Act,1988 be transferred to the MACT, Kolhapur and the Appellant be allowed to kindly withdraw total amount of Rs 85,410/- from the MACT, Kolhapur.

Dated:

Mumbai

Auhtorised Signatory of the Appellant

(Respondent No:1)

Advocates for the Appellant

Advocates for the Respondent No:1"

5. Consent Terms are accepted and be treated as part and parcel of the decree.

6. First Appeal as well as Civil Application stand disposed of in view of Consent Terms.

[K. K. TATED, J.]