

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10901 OF 2015

Chandrakant Tukaram Pawar ... Petitioner
Vs.
Kumari Akshata Pandurang Gavate and others ... Respondents

Ms Krutika Lad i/b. Mr. Avinash M. Gokhale for Petitioner.
Mr. C. D. Mali, AGP for Respondent No.3.

CORAM : UJJAL BHUYAN, J.
DATE : NOVEMBER 20, 2019

P.C. :

Heard Ms Lad, learned counsel for the petitioner and Mr. Mali, learned AGP for respondent No.3-State.

2. None has appeared for respondent Nos.1 and 2 though served.
3. This Petition has been filed under Article 227 of the Constitution of India for quashing of order dated 12.10.2015 passed by the learned Member, Motor Accident Claims Tribunal, Thane in M.A.C.T. Case No.309 of 2010.
4. Respondent No.1 as the claimant had filed the claim petition before the Motor Accident Claims Tribunal, Thane (M.A.C.T.).
5. Be it stated that at the relevant point of time, respondent No.1 was a minor and was represented by her father as the guardian. The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation for the injury sustained by her because of an accident.
6. Case of the claimant was that on 19.09.2009 while she and her grandmother were returning home by walking, a Hero Honda Passion motor-cycle bearing registration No.MH-04-BE-5456, which was being driven by respondent No.2 in a rash and negligent manner, dashed

against the claimant from behind. As a result of the accident, claimant suffered injuries which required hospitalization for a substantial period.

7. The offending motor-cycle belonged to the petitioner who was arrayed as opposite party No.2 in the claim petition.

8. It appears that the claim petition proceeded ex-parte against opposite party Nos.1 and 2 i.e. petitioner and respondent No.2. Ultimately, by the judgment and order dated 04.01.2013, M.A.C.T. awarded compensation of Rs.1,97,950.00 to the claimant with interest @ 7% p.a. from the date of filing the claim petition till realization.

9. Thereafter, the claimant initiated steps for execution of the aforesaid award. It was at that stage that the present writ petition was filed by the petitioner.

10. This Court by order dated 30.10.2015 had issued notice and stayed the execution subject to deposit of Rs.2,00,000.00 by the petitioner.

11. Learned counsel for the petitioner submits that petitioner had deposited Rs.2,00,000.00 before the M.A.C.T. pursuant to which an order was passed on 30.10.2018 by the learned Member, M.A.C.T. that since the petitioner had deposited Rs.2,00,000.00, an application was filed by the guardian of the claimant that he would not like to proceed with the execution proceeding.

12. Consequently, the execution proceeding was disposed of by the learned Member, MACT taking the view that the award was fully satisfied.

13. Since the execution proceeding has been disposed of as the award was fully satisfied, no live issue survives for adjudication in this proceeding. That apart and taking an overall view of the matter, Court is

of the opinion that it would meet the ends of justice if the award is modified to the extent of the amount already deposited with no further interest.

14. Ordered accordingly.

15. If the claimant has not withdrawn the aforesaid amount as deposited by the petitioner, even now, she may withdraw the said amount on proper identification.

16. Accordingly, writ petition stands disposed of.

(UJJAL BHUYAN, J.)

Minal Parab