

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

**FIRST APPEAL (ST.) NO.30696 OF 2017**

Oriental Insurance Company Limited .. Appellant

vs.

Ankush Subhedar Shinde and Ors. .. Respondents

Ms.S.S.Dwivedi for the appellant

Ms.Neeta Karnik for the respondent nos.1 to 5

**CORAM: K.K.TATED, J.  
DATED : OCTOBER 4, 2019**

**P.C.**

1 Heard.

2 By this First Appeal, appellant Insurance Company is challenging the judgment and award dated 10.4.2017 passed by MACT, Pune in MACP No.340 of 2012 holding that Respondent original Claimants are entitled sum of Rs.30,73,000/- by way of compensation with interest @ 7.5% p.a. Operative part of the said order reads thus:

**"ORDER**

*1] The application is allowed with costs.*

*2] The opponents do, jointly and severally pay*

*an amount of Rs.30,73.000/-, (inclusive of NFL amount) to the applicants by way of compensation, along with interest at the rate of 7.5 % per annum, from the date of application, within the period of two months.*

*3] On depositing the amount of compensation together with accumulated interest thereon, 40 % of the total compensation amount be given to the applicant No.3 Smt. Sheetal Amol Shinde, widow of the deceased. 30 % amount of the total compensation be disbursed between applicant No.4 Miss. Arya Amol Shinde and applicant No.5 Master. Sharvil Amol Shinde, equally. Remaining 30 % amount be equally disbursed between parents of the deceased i.e. applicant no.1 Mr. Ankush Subhedar Shinde and applicant No.2 Mrs. Surekha Ankush Shinde, by issuing separate account payee cheques in their favour accordingly.*

*4] The applicants are directed to pay additional court fee on the excess amount of compensation granted to them, within the period of two months, if required.*

*5] An award be drawn up accordingly.”*

3 The learned counsel for the appellant and the learned counsel for the Respondent original Claimant submit that matter is settled out of court. The learned counsel for the Respondent original Claimant submits that Claimants agreed to accept sum of Rs.31 lacs in full and final settlement as per the award passed by the Tribunal. She Mohite

further submits that she filed advocate certificate dated 4.10.2019 stating that present statement is in the interest of both the minors and i.e. Respondent nos.4 and 5. Said certificate is taken on record.

4 The learned counsel for the Respondent original Claimant submits that Respondent no.3 Sheetal Amol Shinde is present in court. She submits that Respondent no.3 signed on behalf of Respondent nos.4 and 5 as a natural guardian being a mother. The learned counsel for the Respondent further identified the signature of Respondent nos.1 and 2 on the consent terms. Respondent no.3 Sheetal Amol Shinde entered into the witness box. She admits the contents of the consent terms stating that the same is explained by her advocate in Marathi language. She also admits the signature on consent terms. Hence, Consent Terms are taken on record and marked 'X' for identification. Same reads thus:

**"CONSENT TERMS**

*1. The Respondent Nos. 1 to 5 had filed application being M.A.C.P. No.340 of 2012 under Section 166 of the Motor Vehicles Act 1988 before Motor Accident Claims Tribunal at Pune claiming compensation in respect of the death of Mr. Amol Shinde in a motor vehicular accident.*

*2. The Claim Petition was allowed vide Judgment and Award dated 10.04.2017, directing the appellant Insurer to pay compensation to the tune of Rs.30,73,000/- inclusive of NFL with interest @ 7.5% per annum from the date of*

*application.*

*3. The Appellant Insurer has preferred aforesaid First Appeal taking exception to the said Judgment and the same is pending before this Honorable High Court.*

*4. During the pendency of the aforesaid Appeal, the Appellant and the Respondent Nos. 1 to 5 had meetings for negotiations and settlement of dispute once for all wherein the parties have reached to an amicable settlement out of the court. The Respondent No.6 is formal party being the owner of the Insured Vehicle.*

*5. The Appellant has already deposited amount of Rs.41,57,287/- on 01.01.2018 with MACT Pune under protest.*

*6. The Respondent Nos. 1 to 5 are ready to accept Rs.31,00,000/- as full and final settlement. (inclusive of NFL 50,000/- already paid ). The Respondents 1 to 5 shall withdraw Rs.31,00,000/- and proportionate accrued interest thereon .*

*7. The Appellant Insurance Company shall be allowed to withdraw balance amount of Rs.10,57,287/- along with proportionate accrued interest thereon.*

*8. In view of the above, the impugned Judgment and Award dated 10.04.2017 passed by Motor Accident Claims Tribunal Pune in M.A.C.P. No. 340 of 2012 stands modified and the claim of the original Claimants stands fully satisfied. The Claim Application filed by the Respondent Nos.1 to 5 before the Tribunal as well as the aforesaid First Appeal with Civil Applications therein filed by the present Appellant stands disposed off in terms of*

*the present Consent Terms.*

*9. The Appellants shall be entitled to refund of Court Fees paid in the Honorable High Court as per rules, alongwith accrued interest thereon. The Decree to be drawn up accordingly.”*

5 In the present Consent Terms, paragraph 6 it is stated that Respondent nos.1 to 5 will withdraw sum of Rs.31 lacs equally with proportionate interest. The learned counsel for the Respondent original Claimant after taking instruction from her client i.e. Respondent no.3 made a statement that they have no objection if minor's share is directed to be invested in fixed deposit till they attain majority. In view of these facts, following order is passed :

- a. First Appeal as well as Civil Application stands disposed of in terms of Consent Terms.
- b. Consent Terms be treated as part and parcel of decree as per impugned judgment and award dated 10.4.2017 passed by the Tribunal.
- c. Respondent nos.4 and 5 i.e. minors are entitled 15% of compensation each. Hence, Tribunal is directed to invest minor's share out of Rs.31 lacs in fixed deposit in any nationalized bank initially for a period of 5 years and same be continued till they attain majority.
- d. Thereafter both the minors can

withdraw the said amount without any further order from this court.

- e. Parties to act on authenticated copy of this order.
- f. At this stage, the learned counsel for the Respondent submits that this Hon'ble court be pleased to permit Respondent no.3 to withdraw the amount on behalf of Respondent nos.1 and 2 also. Hence, liberty granted to the Respondent no.3 that she can withdraw the amount on behalf of Respondent nos.1 and 2 also.

**(K.K.TATED, J.)**