

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

**FIRST APPEAL NO.1045 OF 2016
ALONG WITH
CIVIL APPLICATION NO.2774 OF 2016**

Reliance General Insurance Co. Ltd. .. Appellant/Applicant
Vs.
Kavita Bhushan Patil & Ors. .. Respondents

**ALONG WITH
CIVIL APPLICATION NO.1488 OF 2017
IN
FIRST APPEAL NO.1045 OF 2016**

Kavita Bhushan Patil & Ors. .. Applicants
Vs.
Reliance General Insurance Co. Ltd. .. Respondent

Ms.Poonam Mital for the appellant/applicant in CAF No.2774 of 2016.
Mr.Rajan S. Pawar for the respondent nos.1 & 2 and for the applicant in
CAF No.1488 of 2017.
Mr.Sarfaraj Shaikh i/by Mr.Sachin Gite for the respondent no.4.

**CORAM : R.D.DHANUKA, J.
DATE : 24th February 2020**

P.C.:

. By this appeal filed under Section 173 of the Motor Vehicles Act, 1988, the appellant has impugned the judgment and award dated 27th January 2016 passed by the MACT, Nashik in MACP No.524 of 2013 directing the appellant and respondent no.3 to jointly and severally pay compensation of Rs.17,81,200/- to the respondent nos.1 & 2 including NFL with interest @8% p.a. from the date of claim petition till realisation.

2. By consent of the appellant, the respondent nos.1 & 2 and the respondent no.4, First Appeal is heard finally.

3. Learned counsel for the appellant and the respondent nos.1 & 2 have jointly tendered calculations and agree that the calculations tendered by the learned counsel is in conformity with the judgment of the Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi & Ors., (2017) 16 SCC 680***. Both the parties have agreed that the amount awarded by the Tribunal be substituted by Rs.18,03,664/- including NFL with interest @8% p.a. from the date of claim petition till realisation. Statement is accepted. Copy of the calculations submitted by the parties is taken on record and marked 'X' for identification.

4. I therefore pass the following order :-

- (i) The respondent nos.1 to 2 would be entitled to recover an amount of Rs.18,03,664/- including NFL with interest @8% p.a. from the appellant from the date of claim petition till realisation after adjusting the amount already withdrawn out of the amount deposited by the appellant.
- (ii) If there is any shortfall in recovering the amount by the appellant, the appellant shall deposit the said shortfall amount within two weeks from the date of computation of the said amount by the concerned MACT. If there is any surplus left after payment of decretal amount,

the same shall be refunded to the appellant.

(iii) The judgment and award dated 27th January 2016 is substituted by this order.

5. Appeal is disposed of on aforesaid terms. In view of disposal of the first appeal, pending civil applications, if any, do not survive and are accordingly disposed of. Office is directed to transmit the statutory deposit of Rs.25,000/- to the concerned MACT expeditiously. Parties as well as the MACT to act on the authenticated copy of this order.

R.D.DHANUKA, J.