

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1062 OF 2016
ALONGWITH
CIVIL APPLICATION NO. 4086 OF 2014
IN
FIRST APPEAL NO. 1062 OF 2016

The Oriental Insurance Co. Ltd. Appellant

VERSUS

Chandrakant Baburao Gaikwad & Ors. Respondents

Ms.Poonam Mittal for the Appellant.

Mr.Samarth R. Morey, i/b. Mr.V.S.Talkute for the Respondent nos. 1 to 4.

CORAM : R.D. DHANUKA, J.

DATE : 26th FEBRUARY, 2020

P.C.

By this appeal filed under section 173 of the Motor Vehicles Act, 1988, the appellant (original respondent no.3) has impugned the judgment and decree dated 12th May, 2014 passed by the M.A.C..T. Satara allowing the claim made by the opponent nos. 1 to 3 to pay jointly and severally compensation of Rs.16,59,000/- to the applicants within 30 days from the date of the award with interest at the rate of 7% per annum from the date of application until the amount is deposited in the court.

2. By consent of appellant and the respondent nos.3, appeal is heard finally at the admission stage.

3. Learned counsel for the appellant has tendered calculation and

would submit that according to the appellant the respondent nos. 1 to 3 would be entitled to maximum compensation of Rs.15,24,000/- as against the compensation of Rs.16,59,000/- allowed by the Tribunal in accordance with the evidence led and the principles of law laid down by the Supreme Court and this court in various judgments.

4. Mr.Morey, learned counsel for the respondent nos. 1 to 4 on instruction states that his clients are ready and willing to accept the amount as per calculation submitted by the appellant in the full and final settlement of the dues payable to his client under the said judgment and award awarded by the M.A.C.T. Statement is accepted.

5. The calculation is taken on record and is marked 'X' for identification. The impugned judgment and award dated 12th May, 2014 passed by the M.A.C..T. Satara is substituted by following order :-

(a) The respondent nos. 1 to 4 would be entitled to a sum of Rs.15,24,000/- with interest at the rate of 7% per annum from the date of application till realization out of the amount deposited by the appellant before the M.A.C.T. Satara. If there is any shortfall in the amount deposited by the appellant, the appellant shall deposit the said amount of shortfall within two weeks from the date of such computation of such shortfall with the concerned M.A.C.T.

(b) If there is any surplus amount deposited by the appellant, the same shall be refunded to the appellant after paying the amount to the respondent nos. 1 to 4 as

awarded by the M.A.C.T. and modified by this order expeditiously.

(c) Office is directed to transmit a statutory deposit of Rs.25,000/- deposited by the appellant expeditiously.

(d) First Appeal is disposed of on the aforesaid terms. No order as to costs.

(e) The parties as well as the concerned M.A.C.T. to act on the authenticated copy of this order.

(f) In view of disposal of the First Appeal, Civil Application No.4086 of 2014 does not survive and is accordingly disposed of. No order as to costs.

[R.D.DHANUKA, J.]