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

FIRST APPEAL NO. 1237 OF 2018

Transport Manager,
Thane Municipal Transport
Undertaking, Administrative Building,
Road No. 27/34, Junction, Wagle Depot,
Wagle Estate, Thane – 400 604.

... Appellant

Versus

1. Shri Rajendra Visanji Thakkar
Age: 45 years,
2. Mrs. Priti Rajendra Thakkar
Age: 41 years,
Both resident of Bhakti Dham Building,
3rd Floor, Room No. 58, Shivaji Nagar,
Wagle Estate, Panchpakadi, Thane – 400 604. ... Respondents

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Mr. N.R. Bubna along with Ms. Pooja Singh and Mr. Sarvesh Waghchaure,
Advocates for the Appellant.

Mr. Nikhil Mehta along with Mr. Rahul Mehta i/by M/s. KMC Legal
Venture, Advocates for the Respondent Nos. 1 and 2.

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CORAM : R.D. DHANUKA, J.

RESERVED ON : 27th FEBRUARY, 2020

PRONOUNCED ON : 19th MAY, 2020

JUDGMENT :

. By this First Appeal filed under Section 173 of the Motor Vehicles Act, 1988, the appellant (original opponent) has impugned the judgment and award dated 5th July, 2018 passed by the Motor Accident Claim Tribunal, Thane (hereinafter referred to as 'M.A.C.T., Thane' for short) in M.A.C.P. No. 284 of 2015 allowing part of the claim application filed by the

respondents (original claimants) and directing the appellant to pay a sum of Rs.22,79,100/- to the respondents with interest @ 8% p.a. from the date of application. Some of the relevant facts for the purpose of deciding this First Appeal are as under:-

2. It was the case of the respondents that on 5th December, 2014 Master Dhruv Rajendra Thakkar who was son of the respondents and was 15 years of age was boarding T.M.T. bus bearing No. MH04-G-2885 in front of Dnyan Sarita High School at Bus Stop, Mulund (E), Mumbai, with proper care and caution. The conductor of the bus rang the bell without realizing the fact that the Master Dhruv Rajendra Thakkar was boarding the bus. The said bus started moving and the said Master Dhruv Rajendra Thakkar fell on the road and the rear wheel of the bus went over the legs of the Master Dhruv Rajendra Thakkar. The said Master Dhruv Rajendra Thakkar was shifted to Jupiter Hospital for specialized treatment. He was an indoor patient from 9th February, 2015 to 13th February, 2015. He however unfortunately died on 13th February, 2015 on account of the injuries sustained in the said accident (hereinafter referred to as 'the said deceased' for short).

3. It was the case of the respondents that the said deceased was a brilliant student and was taking education in 10th standard in Nav Bharat Nutan Vidyalay. He also use to do part time job. The respondents filed a claim application before the M.A.C.T., Thane *inter-alia* praying for compensation against the appellant. The said claim was resisted by the appellant by filing written statement. The Tribunal framed four issues for determination. The respondent no.1 entered the witness box. The respondents also examined Mr. Mahesh Patil (C.W.2) to prove the admission of the said deceased at Jupiter Hospital and expenses incurred thereon. The respondents also examined Sushama Ojha (C.W.3) to prove the proof of the hospital bills. The appellant examined Ravindra Vekhande (D.W.1), who

was on the wheel of the offending vehicle at the relevant time and Mr. Jaysingh Kamble (D.W.2), who was the conductor of the said bus at the relevant time. The witnesses examined by the respondents produced various documents including true copies of the FIR, statement of informant Kamlesh Jain who was an eye witness, spot panchanama, post-mortem report and death certificate of the said deceased before the Tribunal.

4. The Tribunal delivered a judgment and award on 5th July, 2018 allowing the claims made by the respondents partly and directing the appellant to pay a sum of Rs.22,79,100/- with interest @ 8% p.a. from the date of application. The respondents did not challenge the said judgment dated 5th July, 2018. The appellant however has impugned the said judgment and award on various grounds.

5. Mr. N.R. Bubna, learned counsel for the appellant invited my attention to the various paragraphs from the pleadings filed by the parties, documents annexed to the First Appeal and compilation of documents filed by the respondents including copy of FIR and Panchanama.

6. Mr.Bubna learned counsel for the appellant invited my attention to the panchanama annexed to the compilation of the documents and would submit that the said deceased boy had climbed the bus even before the said bus could halt at the bus stop. He also relied upon the evidence of the respondent no.1 (original claimant no.1) and would submit that the said witness in his cross examination has admitted that the spot of the accident was 10 feet before the bus stop. He submits that it is thus clear that the said deceased tried to climb the bus even before the said offending vehicle could stop at the bus stop. It is submitted that when the said deceased was boarding the bus, he came under the wheels of the said offending vehicle. Learned counsel also placed reliance upon the statement of Mr.Kamlesh K. Jain whose name was also shown in the FIR. It is submitted that the said

deceased was solely negligent for the said accident and thus no compensation could be awarded by the Tribunal against the appellant.

7. It is submitted by the learned counsel that the respondent no.1 who entered the witness box on behalf of the claimants was not even aware whether the said deceased was trying to board the running bus before arrival of the said bus at the bus stop. He submits that the statement of Mr.Kamlesh Jain that the bus was at the bus stop when the accident took place is contrary to spot panchanama. He invited my attention to the spot panchanama annexed to the compilation of the documents filed by his client and would submit that even the spot panchanama would clearly indicate that the accident had taken place 10 feet before the bus stop.

8. Learned counsel for the appellant invited my attention to the examination in chief and the cross examination of the driver of the offending vehicle examined by the appellant. He submits that the said driver had not seen the accident. It is submitted by the learned counsel that it was not the case of the respondent no.1 that the tyres of the offending vehicle went over the deceased. He submits that the offending vehicle was taking reverse for taking the said deceased outside the wheels of the said offending vehicle. No enquiry was conducted against the said conductor by the police. He invited my attention to the findings rendered by the Tribunal against the appellant and would submit that the Tribunal itself has nearly held that the accident had taken place before 10 feet of the bus stop. Learned counsel submits that the findings rendered by the Tribunal is based on conjectures and surmises and ignoring the spot panchanama as well as the evidence of the witnesses examined by the appellant. He submits that the finding of the Tribunal that the accident had occurred when the deceased had boarded the bus and the driver started the bus suddenly is totally perverse. He submits that the finding that no independent evidence was led by the appellant that the deceased was trying to chase the running bus is also perverse.

9. It is submitted by the learned counsel that there was a curve on the road before turning the bus. This aspect is totally ignored by the Tribunal in the impugned judgment and the award. He submits that the said deceased was solely responsible for the said accident and thus no compensation could be awarded against the appellant by the Tribunal. Learned counsel for the appellant placed reliance on the judgment of the Supreme Court in case of ***Oriental Insurance Company Limited vs. Meena Pariyal and others (2007) 5 SCC 428*** and in particular paragraphs nos. 25 and 27 in support of his submission that the onus to prove the negligence was on the claimants which the claimants had failed according to the learned counsel.

10. Learned counsel invited my attention to the claim application filed by the respondents and would submit that the bus could not be in speed in view of there being a curve before the bus took a turn. The evidence led by the claimants did not demonstrate that there was any negligence on the part of the bus driver of the offending vehicle when the accident had occurred. The Tribunal has considered the material not on record and has not considered the material on record.

11. Insofar as the quantification of the amount is concerned, the learned counsel for the appellant submits that the entire amount of compensation awarded by the Tribunal is based on no evidence. The witness examined by the claimants did not prove the correctness of the contents of the bills produced by the respondents in support of the claim for quantification. The witness PW-2 admitted in his cross examination that he was not aware as to what treatment was given to the said deceased. He was also not aware as to for what treatment the said deceased was admitted in the said hospital. He submits that the respondents did not produce any bills alleged to have been issued by the Jupiter Hospital, Thane in support of the claim for compensation. The respondents had produced the bills only allegedly issued

by the Raj Hospital of Dr.Mukhi in the sum of Rs.1,85,750/-. He lastly submits that the Tribunal atmost could have awarded only a reasonable compensation in favour of the respondents and not such exorbitant compensation awarded against the appellant.

12. Mr.Mehta learned counsel for the respondent nos. 1 and 2 on the other hand strongly placed reliance on the findings rendered by the Tribunal. He invited my attention to the claim application filed by the respondents before the Tribunal. He submits that the Tribunal had already allowed the application filed by the respondents under section 140 of the Motor Vehicles Act directing the appellant to pay certain amounts. The appellant did not challenge the said order passed by the Tribunal under section 140 of the Motor Vehicles Act by filing any appeal before this court.

13. Learned counsel for the respondent nos. 1 and 2 invited my attention to the cross examination of the driver of the offending vehicle examined by the appellant and would submit that the said witness in his cross examination admitted that he did not have any documentary evidence in support of what was deposed by him in his examination in chief. He rang the bell without noticing the deceased. The bus driver of the offending vehicle admitted in his cross examination that he did not see the accident. He submits that in view of such deposition in the cross examination, his entire examination in chief has to be discarded.

14. Insofar the compensation awarded by the Tribunal on the basis of the bills produced by the respondent nos. 1 and 2 and proved through the witnesses examined by the respondents is concerned, it is submitted that the respondents had produced all the bills issued by the two hospitals including Jupiter Hospital. He invited my attention to the compilation of such medical bills issued by the two hospitals which were on record before the Tribunal. He submits that the appellant did not put any suggestion to the witnesses

examined by his clients in their cross examination that the bills produced by them were fabricated. There was no cross examination about the contents, validity and authenticity of those bills produced by the respondents.

15. It is submitted by the learned counsel that his clients had examined an employee from the Billing Department of the Jupiter Hospital to prove the contents and authenticity of those bills produced by the respondents. The said witness was not examined to prove the extent of disability of the said deceased but was examined only to prove the fact that the respondents had incurred such amount on hospitalization of said deceased and on medicines.

16. Learned counsel for the respondent nos. 1 and 2 placed reliance on the judgment of Supreme Court in case of ***Bimladevi and others vs. Himachal Road Transport Corporation and others, in Civil Appeal No.2538 of 2009*** delivered on 15th April, 2009 and in particular paragraphs 14 and 15 in support of the submission that the respondents were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. Learned counsel for the respondent nos. 1 and 2 also placed reliance on the judgment of Supreme Court in case of ***Kajal vs. Jagdishchand and others in Civil Appeal No.735 of 2020*** delivered on 5th February, 2020 and in particular paragraph nos. 20, 26, 28 and 29 in support of his submission that the Tribunal ought to have allowed various other compensation also in addition to the compensation allowed by the Tribunal.

17. It is submitted by the learned counsel that the Tribunal also ought to have allowed the claim for compensation towards future prospect to the extent of 40% of the annual income derived by the Tribunal which would be in the sum of Rs.2,16,000/-. He submits that since the said deceased was minor, the respondents who are the parents of the said minor would be also entitled to additional compensation by way of filial compensation in the

sum of Rs.40,000/- each. Learned counsel submits that the Tribunal ought to have awarded a sum of Rs.50,000/- also towards loss of love and affection. In support of this submission learned counsel placed reliance on the judgment of Supreme Court in case of ***Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others*** in ***Civil Appeal No.9581 of 2018***.

18. Learned counsel for the respondent nos. 1 and 2 tendered calculation showing a sum of Rs.26,25,106/- and submits that according to his clients they are entitled to recover from the appellant not only Rs.22,79,106/- as awarded by the Tribunal but the amounts reflected in the statement tendered across the bar. He submits that there is no merit in the appeal filed by the appellant. Though the respondent nos. 1 and 2 have not filed any cross appeal or cross objection, this court has ample powers to enhance the claims which were not awarded by the Tribunal in accordance with the principles of law laid down by the Supreme Court in several judgments and also by this court in case of ***Kunti Pandey***.

19. Mr.Bubna, learned counsel for the appellant in rejoinder would submit that the witnesses examined by the appellant had not admitted the suggestions put by the respondent nos. 1 and 2 in their cross examination but had denied those suggestions. The case of the respondent nos. 1 and 2 themselves was that the accident had occurred much before the bus stop.

REASONS AND CONCLUSIONS

20. With the assistance of the learned counsel appearing for the parties, I have perused the pleadings, oral and documentary evidence led by the parties and the reasons recorded and the findings rendered by the Tribunal.

21. A perusal of the claim application filed by the respondent no.1 and 2

indicates that it was the case of the respondent nos. 1 and 2 that the said deceased was boarding the offending vehicle in front of Dnyansarita High School, T.M.T.Bus Stop, Dr.R.P.Road, Mulund East, Mumbai 400 080 with proper care. The said offending vehicle however started suddenly without any signal or without looking front and back and in a fast speed and in negligent manner due to which the said deceased failed down on the road from the said offending vehicle and sustained serious injuries. He was admitted to Raj Hospital, Mulund for medical treatment and thereafter was shifted to Jupiter Hospital, Thane for better treatment. He was in the said hospital for number of days for treatment.

22. The claim was resisted by the appellant by filing written statement. The Tribunal passed an order on 8th March, 2017 under section 140 of the Motor Vehicles Act, 1988 directing the appellant to pay an amount of Rs.50,000/- as 'no fault liability compensation' with interest at the rate of 8% per annum from the date of the said order till realization. Admittedly the appellant did not challenge the said order passed by the Tribunal by filing any appeal before this court. The Tribunal framed four issues for adjudication.

23. In the written statement filed by the appellant before the Tribunal, it was the case of the appellant that when the said offending vehicle came near the bus stop, the deceased came running and tried to catch the running bus but could not hold the bar of the bus and fell down. The rear wheel of the bus ran over him. The passengers in the bus started shouting and accordingly the bus driver stopped his vehicle and took the bus reverse. It was the case of the appellant that the bus driver was not responsible for the said unfortunate accident. Some civil work of the road was going on and there was big pit on the side of the road. It was also the case of the appellant that the speed of the said offending vehicle was very slow as the bus was to halt at the said bus stop. It was the case of the appellant that at about 10

feet distance from the said bus stop, the said deceased tried to catch the said running bus and in such attempt, he could not catch the bars of the bus and fell down on the road.

24. On behalf of the respondent no. 1 and 2, respondent no.1 who is father of the said deceased filed his affidavit of evidence. In his deposition he deposed that the said deceased was boarding the offending vehicle on 5th December, 2014 at about 13 hours in front of the Dnyansarita High School, T.M.T.Bus Stop, Dr.R.P.Road, Mulund East, Mumbai 400 080 with proper care. The driver of the offending vehicle was totally negligent. The said witness also tendered large number of documents before the Tribunal. The said witness was cross examined by the appellant's advocate. In his cross examination, the said witness deposed that he had visited the spot of the accident on the same day. The spot of accident is situated at the distance of 10 feet before arriving the said bus stop. The said witness denied the suggestion that any repairing work was in progress on the date of the accident near the bus stop. He deposed that he was not aware whether the said deceased was trying to board running bus before arrival of the bus at bus stop. He denied the suggestion put by the appellant that the driver and the conductor of the bus were doing their job carefully.

25. The respondent nos.1 and 2 also examined Mr.Mahesh Ragho Patil who was manager of the Jupiter Hospital since 2007. In his affidavit in lieu of examination in chief he deposed that the respondent nos. 1 and 2 had paid an amount of Rs.15,23,356/- as mentioned in the bills produced by him and confirmed that the said amount was received by the said hospital by the respondent nos. 1 and 2. The said witness was cross examined by the appellant. In his cross examination he deposed that he was not concerned with the treatment given to the said deceased by the said hospital. He was not aware as to for what purpose the said deceased was admitted in the said hospital. He denied the suggestion put to him that the said Jupiter Hospital

had issued bills of excess amount.

26. It is thus proved beyond reasonable doubt by the respondent no.1 who entered the witness box that the driver of the said offending vehicle was responsible for his negligence. The driver did not notice the said deceased when he was driving. The second witness examined by the respondent no. 1 and 2 proved that the said deceased was admitted in Jupiter Hospital for treatment arising out of the accident and had paid a sum of Rs.15,23,356/- to the Jupiter Hospital. The contents of the said bills relied upon by the respondent nos. 1 and 2 showing the payment made to the Jupiter Hospital were thus proved by the said witness.

27. The respondent nos. 1 and 2 also examined Mrs.Sushama Sunil Ojha who was attached to Raj Hospital since 19 years. The respondent nos. 1 and 2 had produced the bills of the said hospital for the treatment given to the said deceased by the said hospital in the sum of Rs.1,85,750/-. The said witness was cross examined by the appellant. The said witness identified those bills. The said witness however was not personally aware in respect of the injuries caused to the said deceased and the treatment given to him.

28. On behalf of the appellant, the driver of the offending vehicle Mr.Ravindra Ramchandra Vekhande filed an affidavit in lieu of examination in chief. In his deposition he stated that the accident had taken place 10 feet prior to the bus stop. The offending vehicle was driven in a slow speed. It is deposed that the said deceased was responsible for the said accident being negligent. In his cross examination, the said bus conductor deposed that he had not seen the accident. He denied the suggestion that the accident had occurred due to his negligence. He admitted that the police had registered offence against him. No departmental enquiry was held against him.

29. The appellant also filed an affidavit in lieu of examination in chief of

the bus conductor of the offending vehicle Mr.Jaisingh Ramchandra Kamble. In his deposition, he also made the same deposition what was made by the driver of the offending vehicle. In his cross examination, he admitted that the police had registered crime against him. He did not have any documentary evidence to prove the contents of the paragraphs 2 and 3 of his affidavit in lieu of examination in chief. He admitted that he rang the bell without noticing the deceased. He denied the suggestion that the accident occurred due to his negligence.

30. A perusal of the impugned judgment and award indicates that the Tribunal considered all the pleadings as well as oral and documentary evidence led by the parties. The Tribunal also considered the investigation papers and more particularly FIR, spot of accident panchanama. The Tribunal accordingly held that the deceased was boarding the bus and the driver of the bus suddenly started moving the bus. It is accordingly held that the driver of the offending vehicle was negligent. The evidence of the DW-2 Mr.Jaisingh Kamble was contrary to the FIR and spot panchanama. Learned counsel for the appellant could not dispute that the bus conductor and the bus driver were prosecuted on account of rashness and negligence on their part. It was not the case of the driver and the bus conductor of the offending vehicle that the police had filed false case against them. The appellant also did not lead any independent evidence in support of their defence that the said deceased was trying to catch the running bus.

31. Learned counsel for the appellant could not dispute that the spot panchanama clearly indicated that blood strain marks were noticed ahead of the bus stop at the distance of 15 feet. The appellant though examined two witnesses, did not explain this part of the spot panchanama and could not demonstrate before this court as to how the blood stain marks were noticed ahead of the bus stop at the distance of 15 feet. In my view, after considering the pleadings, oral evidence and the documentary evidence, the

Tribunal rightly recorded a finding that the respondent nos. 1 and 2 had proved that the accident had occurred due to rash and negligent driving of the offending vehicle. It is also proved that the said offending vehicle was involved in the said accident.

32. Insofar as quantification of the claim is concerned, it is matter of record that the respondent nos.1 and 2 had examined respondent no.1 as well as two other witnesses. The PW-2 and PW-3 were examined to prove the content of the medical bills issued by the two hospitals who had given treatment to the said deceased. Both the witnesses were examined to prove the contents of the bills and the factum of proof that the said deceased was given treatment by the two hospitals arising out of the said accident. Though both these witnesses were not aware as to what treatment was given to them, that would not conclusively prove that the said respondent nos. 1 and 2 had not paid those bills to the two hospitals. Once the contents of the bills were proved, that clearly indicates that the bills were issued for the treatment given to the said deceased by the said two hospitals. Even in the cross examination of the two witnesses, the appellant did not challenge the authenticity of those bills produced by two witnesses showing the amount paid by the respondent nos. 1 and 2 to those hospitals for the medical assistance provided to the said deceased. I do not find any infirmity in the amount of compensation awarded by the Tribunal in favour of the respondent nos. 1 and 2 based on those medical bills produced and proved through those two witnesses i.e. PW-2 AND PW-3.

33. The Tribunal has also rightly awarded the compensation towards loss of dependency in the sum of Rs.5,40,000/-. Tribunal has awarded a sum of Rs.15,000/- towards loss of estate and another Rs.15,000/- towards funeral expenses. During the course of the arguments, Mr.Mehta, learned counsel for the respondent nos. 1 and 2 tendered calculation of claim and would submit that in addition to the compensation of Rs.22,79,106/- awarded by

the Tribunal, the respondent nos. 1 and 2 would be also entitled to recover Rs.2,16,000/- towards future prospects. Mr.Mehta, learned counsel for the respondent nos. 1 and 2 invited my attention to the paragraph 27 of the finding rendered by the Tribunal and rightly submitted that the said deceased had passed 9th standard examination when the accident had occurred. He had completed the age of 15 years at the time of accident. He was taking education. That fact is not disputed. The learned counsel for the appellant also did not challenge this finding rendered by the Tribunal during the course of argument.

34. Mr.Mehta, learned counsel for the respondent nos. 1 and 2 placed reliance on the judgment of Supreme Court in case of ***National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680***. In my view, the said deceased being a student and was taking education, the Tribunal ought to have considered the compensation towards future prospect at the rate of 40% of the amount of loss of dependency. In my view the respondent nos. 1 and 2 thus would be entitled to recover a sum of Rs.2,16,000/- towards future prospect from the appellant.

35. Insofar as claim for compensation for loss of estate and funeral expenses awarded by the Tribunal at the rate of Rs.15,000/- each are concerned, the respondent nos.1 and 2 had not prayed for enhancement of the said amount. Mr.Mehta, learned counsel for the respondent nos. 1 and 2 also prayed that the respondent nos. 1 and 2 be also awarded additional compensation towards loss of love and affection in the sum of Rs.50,000/-. In support of this submission, learned counsel placed reliance on the judgment of Supreme Court in case of ***Magma General Insurance Company Limited*** (supra). The Supreme Court in the said judgment has allowed a claim for compensation in the sum of Rs.50,000/- to the parents towards loss of love and affection in the similar circumstances. I am thus inclined to accept the said submission of the learned counsel for the

respondent nos. 1 and 2 and to allow the claim for compensation in the sum of Rs.50,000/- towards loss of love and affection in addition to the compensation awarded by the Tribunal.

36. The said deceased being a minor at the time of his death, the respondent nos. 1 and 2 would be also entitled to claim a separate compensation towards loss of filial compensation from the appellant. Mr.Mehta has rightly relied upon the judgment of Supreme Court in case of **Magma General Insurance Company Limited** (supra) in support of this submission. The respondent nos. 1 and 2 thus would be entitled to such compensation at the rate of Rs.40,000/- each from the appellant in addition to the compensation awarded by the Tribunal against the appellant.

37. In my view, Mr.Mehta rightly placed reliance on the judgment of Supreme Court in case of **Bimladevi and others** (supra) in support of his submission that even though respondent no. 1 was not an eye witness to the accident, his evidence as well as the evidence of the other witnesses could not be discarded by the Tribunal. In case of claim arising under the provisions of Motor Vehicles Act, the standard of proof beyond reasonable doubt could not have been applied. In my view, the Tribunal has awarded compensation after considering not only the oral and documentary evidence led by the respondent no.1 but has also considered various undisputed documents such as FIR and spot panchanama. There is thus no merit in the submission of Mr.Bubna, learned counsel for the appellant that the evidence of the respondent no.1 ought to have been discarded by the Tribunal.

38. In my view, there is no merit in any of the submissions made by Mr.Bubna, learned counsel for the appellant. Mr.Mehta has rightly submitted that in addition to the claims awarded by the Tribunal, his clients would be entitled to recover a sum of Rs.2,16,000/- towards future prospects, Rs.50,000/- towards loss of love and affection and Rs.80,000/-

towards loss of filial compensation based on the principles of law laid down by the Supreme Court in the judgments referred to aforesaid.

39. I therefore pass the following order :-

- a. First Appeal No. 1237 of 2018 is dismissed.
- b. Respondents are entitled to recover a sum of Rs.26,25,100/- with interest @ 8% p.a. from the date of claim application till payment or realization. The respondents would be entitled to recover the said amount out of the amount deposited by the appellant before the MACT, Thane in M.A.C.P. No. 184 of 2015 after deducting the amount already withdrawn by the respondent, if any.
- c. If there is any short fall in the amount deposited by the appellant, the appellant shall deposit the short fall within two weeks from the date of computation such short fall amount by the MACT, Thane. If there is any surplus amount left after paying the decretal amount to the respondent payable under the judgment and award dated 5th July, 2018 modified by this judgment, such surplus amount shall be paid to the appellant.
- d. If any additional amount of Court fees is payable due to the increase of the compensation amount, the respondents are directed to pay the deficit in payment of Court fees within two weeks from the date of computation of such Court fees by the MACT, Thane.
- e. Operative part of the judgment and award dated 5th July, 2018 is modified and substituted by this judgment.

f. Parties as well as MACT, Thane to act on the authenticated copy of this judgment.

g. There shall be no order as to costs.

40. This judgment will be digitally signed by the Private Secretary of this Court. Sheristedar of this Court is permitted to forward the appellant and the respondents copy of this order by e-mail. All concerned to act on digitally signed copy of this order.

(R.D. DHANUKA, J.)

Prachi P. Nandiwadekar	Digitally signed by Prachi P. Nandiwadekar Date: 2020.05.19 17:48:53 +0530
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