

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

920 FIRST APPEAL NO.3283 OF 2018

GHANSHYAM GANGARAM GORME
VERSUS
SANJAY SOMINTH SONWANE AND ANOTHER

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Advocate for Appellant : Mr. Balbhim R. Kedar.

Advocate for Respondents : Mr. Avinash Khedkar, h/f Mr. V. N. Shelke.

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CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 17th February, 2022.

PER COURT:

. By consent, heard finally at admission stage.

2 Mr. Kedar, learned counsel for appellant invited my attention to the impugned judgment and award passed by the MACT, Aurangabad in MACP No.238 of 2014 dated 28th May, 2018. He pointed out that though the Tribunal has recorded findings against issue Nos.1 and 2 in favour of the claimant/appellant, dismissed the claim only on the ground of suppression of material facts i.e. reimbursement of medical bills to the tune of Rs.38,000/-. He submitted that copies of medical bills were placed on record before the Tribunal and as such, there was no question of suppression of material facts. The Tribunal has taken very strange approach and dismissed the claim only because of suppression of material facts. He submitted

that rejection of claim has caused serious prejudice to the legal interest of the claimant. Though he is legally entitled to get the compensation on account of permanent disability and injuries, his claim came to be dismissed. He submitted that the impugned judgment and award passed by the Tribunal does not sustain in the eye of law and needs to be quashed and set aside. He urged to remand the matter to the MACT, Aurangabad for fresh decision.

3 Mr. Avinash Khedkar, holding for Mr. V. N. Shelke, learned counsel for respondents supported to the findings recorded by the Tribunal. He submitted that there is no need to remand the matter for fresh decision. It was suppression of material facts from the side of claimant and the Tribunal has rightly dismissed the claim.

4 Having regard to the submissions of the learned counsel for both the sides, I have gone through the impugned judgment and award passed by the Member, MACT, Aurangabad in MACP No.238 of 2014. Even though the Tribunal has held that the claimant has proved that he sustained injuries in the motor vehicle accident dated 9th May, 2013 and the accident was caused due to rash and negligent driving of motorcycle bearing registration No.MH-20-CA-8003 owned by respondent No.2, pleased to dismiss the claim only on the round of suppression of material facts by the claimant. In the concluding

paragraph, the Tribunal has observed that though the claimant has filed his original medical bills and hospital bills with the department for reimbursement, he has not filed the documents to show that really he has received the reimbursement of Rs.38,000/- or more than that. The approach of the Tribunal appears to be erroneous and contrary to the object of the Motor Vehicles Act, 1988, which is beneficial legislation. Under the Motor Vehicles Act, summary inquiry is contemplated while deciding the claim. Even strict adherence to the Evidence Act is not expected while deciding the claim. It was improper on the part of the Tribunal to dismiss the claim only because certain documents were not produced by the claimant.

5 Having regard to the above reasons and discussion, I am of the view that the impugned judgment and award passed by the Member, MACT, Aurangabad in MACP No.238 of 2014 does not sustain in the eye of law and liable to be quashed and set aside. The matter needs to be remitted back to the Tribunal for fresh decision by allowing both the parties to lead their oral and documentary evidence, if any.

6 With these observations, I proceed to pass the following order:

ORDER

- I. The impugned judgment and award passed by the Member, MACT, Aurangabad in MACP No.238 of 2014 dated 28th May, 2018, is hereby quashed and set aside.
- II. The proceedings of MACP No.238 of 2014, are hereby restored to its original position on the file of the Member, MACT, Aurangabad.
- III. The Member, MACT, Aurangabad, is hereby requested to decide the proceedings of MACP No.238 of 2014 within a span of three months from the date of appearance of both the parties.
- IV. Both the parties shall appear before the Tribunal on 1st March, 2022.
- V. The Tribunal shall allow to the original claimants as well as the respondents to produce their oral as well as documentary piece of evidence, if they desire.
- VI. The record and proceedings be sent back to the Tribunal.
- VII. The Tribunal shall not be influenced by the observations made by this Court while deciding MACP No.238 of 2014 afresh and decide the claim on its own merits.

VIII. The first appeal stands disposed of.

IX. No order as to costs.

[SHRIKANT D. KULKARNI, J.]

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