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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

35 FIRST APPEAL NO. 3686 OF 2018

**DNYANESHWAR HARINARAYAN BHATI (JASABHATI)
VERSUS
BABURAO BAPURAO YEOLE AND ORS**

Mr. Mohit R. Deshmukh, Advocate for the
appellant

Mr. S. S. Shinde, Advocate h/f Mr. S. J.
Salunke, Advocate for the respondent NO. 1

Mr. R. F. Totala, Advocate for respondent No.3

CORAM : S. G. DIGE, J.

DATE : 01st August, 2022

P. C.

1. Heard the learned counsel for the
appellant, the learned counsel for the
respondent No.1 and learned counsel for the
respondent No.3.

2. The learned counsel for the appellant
submits that the leaned MACT has dismissed the
claim petition of the appellant which is
challenged by the appellant in the present

appeal. The learned counsel for the appellant further submits that one MACP No. 64/2012 was pending before the learned Tribunal, Beed out of the same accident and same is compromised between the claim petitioner and respondent No.3-insurance company. The learned counsel for the appellant submits that when the appellant came to know about this fact he has filed CA No.6268/2020 before this court for leading the aforesaid evidence in respect of the compromise taken place in MACP No. 64/2012.

3. The learned counsel further submits that the matter can be remanded back to the Tribunal, Beed for afresh consideration in view of the compromise taken in MACP No. 64/2012, as this court is not aware about the terms and conditions and the evidence led before the learned Tribunal, Beed.

4. The learned counsel for the respondent No.3 strongly objected for remand of the matter. The learned counsel further submits that if the matter is decided on merit by the learned Tribunal, Beed, after remand, the appellant is not entitled for the interest for the period from year 2012 to till date.

5. I have heard both the learned counsels. It is the contention of the learned counsel of the appellant that two claim petitions were filed out of same accident. One petition is dismissed by the tribunal. Against the said order present appeal is preferred. Whereas in other petition compromise is taken place between the petitioner and insurance company-respondent No.3. This fact is not denied by respondent No.3. Hence I pass following order:-

ORDER

a] The appeal is partly allowed.

b] The judgment and award dated 11-09-2018, passed by the MACT, Beed in MACP No.175/2015 is quashed and set aside. The matter is remanded to the MACT, Beed.

c] The MACT, Beed shall decide the said matter as expeditiously as possible on its own merit, preferably within one year by giving an opportunity to both the parties.

d] Both the parties, if desire shall lead evidence in support of their case.

e. The appeal stands disposed of.

f. In view of the disposal of the appeal, the civil application, if any, stand disposed of.

[S. G. DIGE, J.]