

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

**FIRST APPEAL NO.438 OF 2021
WITH
INTERIM APPLICATION NO. 3224 OF 2021
IN
FIRST APPEAL NO. 438 OF 2021**

National Insurance Co. Ltd. Appellant
v/s.
Mr. Sushil R. Sapru through Next friend
Mrs. Aashna Sushil Sapru and ors. Respondents

Mr. Amol Gatne for the Appellant.
Mr. V.M. Abhyankar for Respondent No.1.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 04th MARCH, 2022.

P. C. :-

. The Appellant – Insurance Company had filed this Appeal under section 173 of Motor Vehicles Act challenging the judgment dated 06/03/2021 passed by the Member, MACT, Mumbai in Application No.1817 of 2013.

2. During the pendency of this Appeal, the parties have arrived at settlement. They have filed Consent Terms, the relevant clauses of which read thus :-

“ 3. The Respondent no.1 hereby agrees to compromise the matter, by waiving off the amount of Rs.3,00,000/- and interest thereon and by further accepting Rs.6,87,282/- (Rs.Six Lakhs Eighty Seven Thousand two hundred and eighty two only/-) alongwith the interest at 8%, thereon as granted by the Tribunal towards full and final satisfaction/settlement of their claim for compensation (which is inclusive of interest and NFL amount) filed in MAC Petition No.1817/2013 at Mumbai.

4. The Respondents, hereby undertakes and gives up any further claim/right/ to seek any further amount as and by way of compensation from the Appellant, by any legal proceedings and further agrees and assures the Appellant, that, they or any other person claiming to be the Legal Heir of them will not file any other proceedings making any further claim for compensation. The Respondents, further agrees if in future, if the above mentioned contingency/claim arises, then, the respondents would be sole liable to defend the same and the Appellant will not be liable to make any further payment, whatsoever.

5. Considering the above position, the Appellant hereby wishes to settle the claim of the Respondent/claimants, by compromising the matter at this stage, as the Appeal is primarily filed on the point of quantum.

6. The Appellant hereby agrees to settle the Respondent claim by making full and final payment of Rs.6,87,282/- (Rs. Six Lakhs Eighty Seven Thousand Two hundred and eighty two only/-) alongwith the interest at 8%, which the Appellant undertakes to deposit with MACT, within a period

of 8 weeks from the date of filing this Consent Terms.

7. Parties agree to have no objection for the transfer of Rs.25,000/- deposited in this Hon'ble High Court to be transferred to MACT, Mumbai. The statutory amount of Rs.25,000/- U/Sec.173 of M.V.Act, 1988, deposited by the Appellant by DD No.943756 dt:-11/8/2021, drawn on HSBC Bank, Mumbai, be transferred to the MACT, Mumbai and the same would be withdrawn by the Appellant Insurance Co.

8. The Parties hereby jointly agree for the modification of the Award passed in the MACP No.1817/2013 @ Mumbai, in above terms and the request the Hon'ble High Court to modify the Award passed therein accordingly. ”

3. The Claimant – Sushil R. Sapru is stated to have suffered 20% permanent disability relating to functioning of brain. The Claim Petition was therefore filed by the claimant through next friend his wife – Ms. Aashna Sushil Sapru. The Consent Terms are signed by Aashna and by the Authorized Officer of the Appellant – Insurance Company. The terms are agreeable to the respective parties. Hence, the Consent Terms are taken on record and marked as 'X' for identification. The impugned judgment and Award is modified in above terms. The Appellant – Insurance Company to deposit the amount within a period of eight weeks from today, if not yet deposited. The claimant, through

his wife, shall be entitled to withdraw the amount deposited by the Appellant with interest accrued thereon. Appeal stands disposed of in view of the Consent Terms. Civil Application, if any, stands disposed of in view of disposal of the Appeal.

**PREETI
H JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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