IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 CRA NO.48 OF 2018

BRAMHADEO FHALUAPPA ALIS FULLAPPA GADHAVE
VERSUS
SHOBHABAI PRALHAD GORKHE AND OTHERS

...
Advocate for Petitioner/Applicant : Mr. Bolkar Yogesh B.
...

CORAM : S. G. MEHARE, J.
DATE : 01.12.2023

PER COURT :-

1. Heard learned counsel for the applicant.

2. He would submit that the applicant had challenged only the findings recorded by the learned M.A.C.T. Aurangabad. Hence, he is not liable to tax the *ad valorem* court fee. However, the Registry objected that the applicant has impugned the judgment and award for setting aside or modification of Clause-II of the award. He was challenging the part of the award for which *ad valorem* court fee has to pay by the applicant. The Taxing Officer has applying the mind incorrectly and erroneously held that *ad valorem* court fee will have to be paid by the applicant.

3. Learned counsel for the applicant relying on the judgment of ***Peethambara Panicker Vs. Pratheepkumar ; LEX (KER) 2012 3 494***.

4. Above case was under the Kerala Court Fees and Suits Valuation Act, 1959. The present civil revision application was preferred against the award of the Motor Accident Claim Tribunal. Section 7 Sub Section (2) of the Maharashtra Court Fees Act deals with fee on memorandum of appeal against award of the Claims Tribunal preferred under Section 110-D of the Motor Vehicles Act, 1939. As per the said provisions, if such appeal is preferred by the insurer or owner of the Motor Vehicle, the full *ad valorem* fee is leviable on the amount at which the relief is valued in the memorandum of appeal according to the scale prescribed under Article 1 of Scheduled I. If such appeal is preferred by any of other person, one half of *ad valorem* fee leviable on the amount at which the relief is valued in the memorandum of appeal according to the said scale.

5. The petitioner/applicant was the owner of the vehicle, who had impugned the award of the Motor Accident Claims Tribunal. Therefore, he would be governed under Section 7

(2)(i) of the Maharashtra Court Fees Act and he has to pay full *ad valorem* fee under Article 1 of Scheduled I.

6. A specific provision has been made in the Maharashtra Court Fees Act about the court fees payable on memorandum of appeal. Therefore, the case law relied upon by the applicant would not assist him.

7. In view of the above legal provision, the objection raised by the Taxing Officer appears not illegal. The applicant is liable to pay the court fee as per Section 7(2)(i) of the Maharashtra Court Fee Act.

8. For the reasons mentioned above, the civil revision application stands dismissed at admission stage.

(S. G. MEHARE, J.)

...

vmk/-