

Ghuge

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

**FIRST APPEAL NO.1266 OF 2015
WITH
CIVIL APPLICATION NO.1977 OF 2014**

The New India Assurance Company Ltd
Through Mumbai Regional Office No.1. ... Appellant
V/s.
Allamin Sheikh Umar Maniyar and Anr ... Respondents

**WITH
WRIT PETITION NO.5219 OF 2014**

The New India Assurance Company Ltd
Through Mumbai Regional Office No.1. ... Petitioner
V/s.
Allamin Sheikh Umar Maniyar and Anr ... Respondents

Mr. D.S. Joshi for the appellant.

Mr. Avinash M. Joshi for respondent No.2.

Mr. T.J. Mendon for respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 27, 2023

P.C.:

WRIT PETITION NO.5219 OF 2014

1. The petition challenges order dated 10th October, 2013 passed by learned Commissioner Workmen Compensation in the Review Application (WCA) No.606/F-16/2013. The application for review was filed principally on the ground in paragraph 12 of the judgment, dated 25th July, 2013 the Commissioner adjudicated the

compensation amount of Rs.4,50,634/-(Rupees Four Lakh Fifty Thousand Six Hundred and Thirty Four Only) and medical expenses to the extent of Rs.1,53,594/-(Rupees One Lakh Fifty Three Thousand Five Hundred and Ninety Four Only). However, while deciding total compensation, medical expenses which were held to be entitled to by the applicant had not been added in the total claim. The claimant therefore, filed application for review under Rule 32 of Workmen's Compensation Act, 1923. Sub-rule 2 of Rule 32 reads as under.

32. (1).....

(2) The Commissioner, at the time of signing and dating his judgment, shall pronounce, his decision, and thereafter no addition or alteration shall be made to the judgment other than the correction of a clerical or arithmetical mistake arising from any accidental slip or omission.

Meaningful reading of Sub-rule 2 makes it clear that Commissioner has no power of review save and except corrections of clerical and arithmetical error from any accidental slip or omission.

2. On perusal of paragraph 12 of the judgment though the Commissioner held to be claimant entitled to compensation of Rs.4,50,634/-(Rupees Four Lakh Fifty Thousand Six Hundred and Thirty Four Only) and medical expenses to the extent of Rs.1,53,594/-(Rupees One Lakh Fifty Three Thousand Five Hundred and Ninety Four), while granting total amount only amount of Rs.4,50,634/- (Rupees Four Lakh Fifty Thousand Six Hundred and Thirty Four Only) has been held to be payable.

3. Therefore, in my opinion, inclusion of entitled amount of Rs. 1,53,594/- (Rupees One Lakh Fifty Three Thousand Five Hundred and Ninety Four Only) would form clerical error as contemplated by Sub-rule (2) of Rule 32 of the Employees Compensation Rule, 1924. Since by the impugned judgment and award, said corrections has been cured, there is neither miscarriage of justice and nor error of law. Therefore, the Writ Petition stands dismissed. No costs.

4. List the First Appeal on **13th March, 2023.**

(AMIT BORKAR, J.)