



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

911 FIRST APPEAL NO. 3158 OF 2019

Hanumantrao Baburao Lavhat And Anr

....Appellants

VERSUS

Sandipan Dnyandeo Kale And Anr

.....Respondents

.....

Mrs. P. V. Langhe, Advocate for Appellants.

Mr. V. P. Sawant, Advocate for respondent No. 1.

Mr. R. F. Totala, Advocate for respondent No. 2.

WITH
CIVIL APPLICATION NO. 3884 OF 2019
IN FA/3158/2019

CORAM : R. M. JOSHI, J.

DATE : 9th JANUARY, 2024.

PER COURT :

1. At the outset, learned counsel for appellants submits that this is a fit case wherein additional evidence sought to be led by the appellants/original claimants is required to be allowed. According to learned counsel for respondent-insurer, if it is a case of the appellants that there is additional evidence which requires consideration, the said exercise needs to be done by the Tribunal and not by this Court. These submissions are made without prejudice to the rights and contentions of the insurer.

2. Learned counsel for appellants also seeks remand of MACP No. 87/2010 by setting aside the impugned award. But she claims that the remand may only be for purpose of deciding claim for enhancement.

3. Having regard to above submissions, it would be in the interest of both the sides that the impugned judgment and award is technically set aside with remanding MACP No. 87/2010 back to the Tribunal for decision on issue of enhancement claimed by claimants on basis of fresh evidence. The Tribunal to decide issue about additional evidence on merits as per law. The issue in this regard is kept open.

4. It is hereby clarified that in case Tribunal does not find the case for enhancement of compensation, the judgment and award impugned herein is to be maintained. This direction is inevitable in view of the fact that the insurer or owner has not challenged the impugned award.

5. Considering the fact that the claim is of the year 2010, the Tribunal to decide the same on merits within six months from receipt/intimation of this order.

6. Parties to appear before the Tribunal on 6th February, 2024. The Tribunal not to issue fresh notices to the parties.

7. R & P be sent back forthwith.

8. Appeal stands disposed of in above terms.

9. Pending civil application, if any, does not survive and stands disposed of.

(R. M. JOSHI)
Judge

dyb