



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

**FIRST APPEAL NO. 2100 OF 2019
WITH
CIVIL APPLICATION NO.13485 OF 2019**

HDFC ERGO General Insurance Company Limited,
Through It's Branch Manager,
6th Floor, Leela Business Park,
Andheri Kurla Road, Andheri [E],
Mumbai - 400 059

Through Its Branch Manager / Authorized Signatory
Branch Office at : 1st Floor, Renuka Commercial Complex
Nirala Bazar, Nageshwar Wadi, Aurangabad
Dist. Aurangabad

....Appellant

VERSUS

1. Yekub Zumber Shaikh,
Age: 31 Years, Occupation : Labour,
R/o. Mathani, Tq. Nagar,
Dist. Ahmednagar

2. Abasaheb Narhari Gavane
Age : 43 years, Occu. Business,
R/o. Velturi, Tal. Ashti,
Dist. Beed

.....Respondents

.....

Mr. Mohit R. Deshmukh, Advocate for the Appellant
Mr. Rajendra B. Dhakane, Advocate for Respondent No.1

.....

CORAM : NEERAJ P. DHOTE, J.

Reserved On : 12th March, 2025

Pronounced On : 24th March, 2025

JUDGMENT :

1. The Appellant - Insurance Company has filed this Appeal under Section 173 of the Motor Vehicles Act, 1988 [hereinafter referred to as the 'M.V. Act'], taking exception to the Judgment and Order / Award dated 15/06/2018, passed by the Member, Motor Accident Claims Tribunal, Ahmednagar, in Motor Accident Claim

Petition [MACP] No.624/2015, granting compensation to the Respondent No.1 [hereinafter referred to as 'Claimant'] to the tune of Rs.9,20,823/- [Rupees Nine Lakhs Twenty Thousand Eight Hundred Twenty Three Only] along with interest @ 8% per annum from the date of Application till its realization.

2. The facts giving rise to the present Appeal are as under :-

[I] The Claimant was engaged as a Labourer by one agriculturist named Uddhav Rajaram Ghorpade, resident of Village - Mathani, Taluka Nagar, District Ahmednagar. On 05/03/2014, the Claimant was engaged in harvesting of Wheat and Gram. For the said work of harvesting, a Tractor bearing No.MH-23-T-4176 owned by Respondent No.2 [hereinafter referred to as 'Owner'] and insured with the Appellant - Insurance Company was being used with Threshing / Grinding Machine attached to it. During the said work, the Tractor came in reverse direction due to the negligence of the Tractor Driver and the Claimant fell down and he suffered serious injury in his left leg. The Claimant was taken to the Noble Hospital, Ahmednagar for treatment. Due to the said accident, the Claimant lost his left leg.

[II] While taking treatment in the said Hospital as an indoor Patient, the statement of the Claimant came to be recorded on 19/03/2014 and Crime No.49/2014 came to be registered with the Nagar Taluka Police Station for the offence punishable under the relevant Sections of the Indian Penal Code, 1860 [hereinafter referred to as 'I.P.C.'] and M. V. Act against the Tractor Driver. The investigation in the said Crime was conducted and necessary Report came to be submitted before the Competent Court. The Claimant filed the above referred Claim Petition for compensation under Section 166 of the M.V. Act before the learned Tribunal

against the Owner and Insurer of the Tractor. The Claim proceeded *ex-parte* against the Owner. The Insurance Company submitted their Written Statement at Exhibit – 13 and denied the Claim and also denied the involvement of the said Tractor in the accident and contended that, the history given at the time of admission in the Hospital was ‘*accidental insertion of left leg in grinding machine*’ and the said Tractor was not involved in the accident. It was contended that, false Report was lodged by the Claimant, the Driver of the Tractor was not arrayed as the Respondent in the Claim Petition, the Tractor Driver was not having valid and effective driving license and the monthly income of the Claimant was denied.

[III] The learned Tribunal framed the four [4] issues on the basis of pleadings and recorded the findings against the same as under :-

	ISSUES	FINDINGS
1.	Do the applicant prove that he was injured in the vehicular accident on dated 5/3/2014 due to rash and negligent driving of the Tractor No. MH-23-T-4176 by the driver of opponent No.1 ?	In the affirmative.
2.	Whether the opponent No.2 proves that the opponent No.1 has committed breach of terms and conditions of insurance policy ?	In the negative.
3.	Whether the claimants are entitled to get compensation ? If yes, to what extent and from whom ?	As per findings.
4.	What award ?	Application is partly allowed

[IV] In support of the Claim Petition, the Claimant examined himself and brought on record the Police Papers, Medical Papers and Bills. After the Claimant closed his evidence, the Insurance Company examined the Doctor from the Hospital where the Claimant was treated for his leg injury and brought on record the Admission Papers and Discharge summary of the Hospital. After

the Insurance Company closed its evidence, the learned Tribunal passed the impugned Judgment and Order / Award after hearing both the sides and appreciating the evidence on record.

3. Heard the learned Advocate for the Appellant – Insurance Company and the learned Advocate for the Claimant.

4. It is submitted by the learned Advocate for the Appellant – Insurance Company that, the history of accident given at the time of hospitalization and the incident referred in the F.I.R. show two [2] different versions. In the Hospital papers, the history is given as '*accidental insertion of left leg in grinding machine*' and in the F.I.R., it is mentioned that, the injury in the leg was due to the Tractor. In cross-examination of the Claimant, the presence of harvesting machine has come on record. None of the persons on the spot of incident were examined by the Claimant and the initial burden was not discharged by the Claimant. The learned Tribunal should have considered the evidence on record in its totality. The Claim was filed in collusion with the Tractor Owner, who did not participate in the claim proceedings and the Driver of the Tractor was not made the party. By non examining the eyewitness to the accident, adverse inference should have been drawn by the learned Tribunal. Hence, the Appeal be allowed.

4.1 In support of his submissions, the learned Advocate for the Appellant – Insurance Company relied on the following decisions :-

- [a] **New India Assurance Co. Ltd. Vs. Velu and Anr. in Special Leave to Appeal [C] No[s]. 32138/2018 of the Hon'ble Supreme Court of India dated 12/12/2024 ;**
- [b] **New India Assurance Company Ltd. Vs. Shaikh Ashiya wd/o Shaikh Javed and five [5] others of this Bench, in First Appeal No.130/2014 dated 20/10/2021 ;**

- [c] **The United India Insurance Company Limited Vs. Dattarao Madhavrao Deshmukh through legal heirs and one [1] another of this Bench, in First Appeal No.1602/2021 dated 17/12/2021 ;**
- [d] **Bajaj Allianz General Insurance Co. Ltd. Vs. Manisha w/o Lahu Kale and three [3] others of this Bench, in First Appeal No.2742/2015 dated 04/09/2018 ;**
- [e] **Kalpana Rajendra Kothari and Others Vs. Santosh Arvind Jangam and Another ; 2019 SCC Online Bom 2283 ;**
- [f] **Ranjana Prakash and Others Vs. Divisional Manager and Another; [2011] 14 SCC 639 ;**
- [g] **United India Insurance Co. Ltd. Vs. Rajani Suresh Bhore and two [2] others ; 2017 SCC Online Bom 8169 ;**
- [h] **New India Assurance Company Ltd. Vs. Sunita and Others ; 2019 SCC Online Bom 2 ;**

5. It is submitted by the learned Advocate for the Claimant that, the defence taken by the Insurance Company in the Written Statement is not proved by leading evidence. The Thresher / Grinding Machine was attached to the Tractor and therefore, the variance in the history noted in medical papers will not be of any consequence in view of detailed Report lodged by the Claimant while taking treatment. The Doctor from the Hospital intimated the Medico Legal Case [MLC] and delay in lodging the Report will not be relevant. The Claimant proved his case by bringing on record the relevant evidence. Though the Insurance Company approached the Police Officers that false case was registered, there is nothing to show that false case was registered. The strict proof of evidence is not applicable in the Claim Petition and only on the preponderance of probability, the Claim Petition is required to be dealt with. Though the Claimant has not filed any Appeal or Cross-objection, he was entitled for enhanced compensation. Reliance is placed on the Notification dated 03/01/2020 issued by the Ministry

of Labour and Employment, New Delhi, by which, the wages under the said Act is quantified as Rs.25,000/- per month. As per Section 168 of the M.V. Act, just compensation is required to be given. Hence, the Appeal be dismissed and the compensation be enhanced.

5.1 In support of his submissions, the learned Advocate for the Claimant relied on the following Judgments :-

- [a] **Sunita and Ors. Vs. Rajasthan State Road Transport Corporation and Anr. ; AIR 2019 Supreme Court 994 ;**
- [b] **Ningamma and Anr. Vs. United India Insurance Co. Ltd. ; 2009 AIR SCW 4916 ;**
- [c] **Pappu Deo Yadav Vs. Naresh Kumar and Ors. ; AIR 2020 Supreme Court 4424 ;**
- [d] **Jitendra Khimshankar Trivedi and Others Vs. Kasam Daud Kumbhar and Others ; [2015] 4 SCC 237 ;**
- [e] **Erudhaya Priya Vs. State Express Transport Corporation Ltd.; AIR 2020 Supreme Court 4284 ;**
- [f] **Lalan D. alias Lal and Anr. Vs. Oriental Insurance Company Ltd.; AIR 2020 SC 4508 ;**
- [g] **Reliance General Insurance Co. Ltd. Vs. MANJU ; 2021 [6] All MR 171 ;**
- [h] **Mahalakshmi Vs. Krishnaraj ; 2024 ACJ 2244 ;**
- [i] **Syed Sadiq etc. Vs. Divisional Manager, United India Ins. Co.; AIR 2014 Supreme Court 1052 ;**
- [j] **Chandramma Vs. Manager Regional Office, NCC Limited and Another ; [2023] 2 SCC 144 ;**
- [k] **Geeta Dubey Vs. United India Insurance Co. Ltd. ; AIR 2025 SC 386 ;**

- [1] **Atul Tiwari Vs. Regional Manager, Oriental Insurance Company Limited ; AIR Online 2025 SC 23 ;**
- [m] **Notification dated 03/01/2020 issued by the Ministry of Labour and Employment, by which, monthly wages came to be notified as Rs.15,000/- ;**
- [n] **Oriental Insurance Company Ltd. Vs. Radhika D/o Subhash Bhojar and Others; 2019 SCC Online Bom 5112 ;**

6. After hearing both the sides, following points arise for my determination :

- [i] Whether the Claimant was successful in proving the involvement of the Tractor bearing No.MH-23-T-4176 in the accident which caused injury in his left leg ;
- [ii] Whether the Claimant was entitled for enhanced compensation in this Appeal ;

As to Point No.[I] :-

7. The Claimant approached the learned Tribunal with the case that, on 06/03/2014 while he was working in the agricultural field of one Uddhav Rajaram Ghorpade, the Tractor having a Grinding Machine was taken in reverse direction by its Driver without due care and caution and he fell down due to dash by the Tractor and his left leg came below the Tractor's tyre, which caused him severe injury and he was hospitalized for treatment. In support of his Claim, the Claimant examined himself by filing evidence affidavit and he brought on record the Police Papers comprising his Statement / Report, upon which, the Crime was registered against the Tractor Driver, Spot Panchnama, copy of Medical Certificate from the Hospital, Form Comp 'B' issued by the concerned Medical Officer / Doctor, the copy of Final Report filed by the concerned Police Station under Section 173 of the Code of Criminal Procedure, 1973 [hereinafter referred to as 'Cr.P.C']. The Appellant -

Insurance Company examined the Doctor, who was working in the Noble Hospital, Ahmednagar, where the Claimant was hospitalized for medical treatment. In his evidence, the Report of Medical Officer and the Discharge summary of the Claimant are brought on record.

8. The bone of contention raised by the learned Advocate for the Appellant - Insurance Company is that, in the medical papers brought on record in the evidence before the learned Tribunal, the history is given as "*accidental insertion of left leg in grinding machine today at 04:00 p.m.*" and delayed Report to the Police shows involvement of Tractor. There is no dispute on the said aspect. The evidence on record goes to show that, the Claimant was hospitalized from 05/03/2014 till 17/03/2014 in the Noble Hospital and Research Centre, Ahmednagar. It is also evident from the evidence on record and on which, there is no dispute that, the Report in respect of the accident was lodged on 19/03/2014, pursuant to which, a Crime came to be registered for the offence punishable under Sections 279, 337 and 338 of I.P.C and Sections 184, 134 [a][b] and 177 of the M.V. Act against the Driver of Tractor. No doubt, there is delay of thirteen [13] days in lodging the Report by the Claimant with the concerned Police Station. Being the Claim Proceeding under the M.V. Act, as per the settled position in law, the said delay by itself will not be fatal for the Claimant, and strict proof of evidence is not applicable to the Claim Proceedings under the M. V. Act.

9. In the evidence affidavit, the cause of leg injury stated by the Claimant is dash by the Tractor, which had the Grinding Machine attached to it, while coming in the reverse direction and crushing of his left leg below the Tractor wheel. The said contention is corroborated by the Report lodged by the Claimant, which is at

Exhibit - 31. What the evidence of the witness examined by the Appellant - Insurance Company at Exhibit - 28 shows that, the relative of the Patient gave the history of accidental injuries to the leg of Claimant. His evidence further shows that, they used to mention the history of injury in their record as stated by the Patient or his relative. The suggestion is given in the cross examination of this witness examined by the Appellant - Insurance Company that, the history of Patient was taken by the Receptionist in the Hospital. He accepted that, he personally had not taken the history of injury mentioned in Exhibit - 29, which was the said history referred above. It is thus clear that, the relatives of Claimant gave the history to the Hospital at the time of his admission and not the Claimant. His evidence also goes to show that, the primary treatment was given by Dr. Patil and thereafter, the Claimant was treated by Dr. Daule. This witness admitted that, the left leg was amputated above knee and the said injury was possible, if wheel of Tractor goes from the thigh of a person. His cross-examination shows that, the copy of F.I.R with list Exhibit - 42/1 was shown to him and deposed that, the F.I.R bears the seal of Hospital. The Exhibit - 33 F.I.R / Report corroborate the said evidence that, the statement was recorded in the Hospital. It is true that, the Claimant was discharged in the Hospital on 17/03/2014, however the Form Comp 'B' at Exhibit - 23 shows that, the Claimant was treated as O.P.D Patient from 18/03/2014 till 01/11/2014.

10. In the cross-examination of the Claimant, it has come that, on the day of accident, there was harvesting of Wheat and Nuts going on in the agricultural field and the harvesting machine was engaged for the said work. There is no dispute on the aspect that, the investigation done pursuant to the said Report lodged by the Claimant, culminated in filing of Charge-Sheet against the Driver of

Tractor and the Tractor Driver was prosecuted. The result of the said Criminal Case as such will have no impact on the Claim Petition, because the degree of proof required in the Criminal Case and Civil Case / Claim Petition are different. Though the Appellant – Insurance Company filed Complaint/Application with the Superintendent of Police, Ahmednagar contending that, false case in collusion with the Tractor Driver was lodged, there is no iota of evidence to show that, the said Complaint was proceeded and substance was found therein.

10.1. In the first case cited by the learned Advocate for the Appellant in New India Assurance Co. Ltd. Vs. Velu and Anr. [*Supra*], there was no iota of evidence before the Tribunal or the High Court to show that, the injuries suffered by the Claimant therein was due to Motor Accident. It has been observed therein that, in a given case delayed F.I.R will not matter. Merely because the F.I.R has been delayed a claim cannot be rejected, but in the said case, all the available evidence pointed towards a skid and fall and not a motor accident. The F.I.R lodged therein had not proceeded and the police had come to the conclusion that there was no motor accident and had filed closure Report.

10.2 In the second case of New India Assurance Company Ltd. Vs. Shaikh Ashiya wd/o Shaikh Javed [*Supra*], it is observed that, the facts of the said case were peculiar one and on appreciating the evidence available in the said Claim Petition, it was observed by this Court that, *from the material on record, no other inference could be drawn than that it to be a case of collusion between the claimants and the owner of autorickshaw and the Tribunal ought not to have granted the claim petition solely relying on the factum of the driver of the autorickshaw to have been prosecuted and there was no iota of material to even remotely infer the involvement of the autorickshaw in the accident*".

10.3 In the third case of the United India Insurance Company Limited Vs. Dattatrao Madhavrao Deshmukh and Ors. [*Supra*], it is observed that, there was no reliable and convincing evidence to suggest the involvement of the motor vehicle in the accident in question. The aspects in that case were, delay of [21] twenty one days in lodging Report with the concerned Police Station, delay of [11] eleven months in recording statement of the eyewitness to the incident and no signatures of the persons on their statements recorded by the Police Station.

10.4 In fourth case of Bajaj Allianz General Insurance Co. Ltd. Vs. Manisha Lahu Kale [*Supra*], this Court observed that, after careful examination of oral and documentary evidence placed on record, the conclusion was that, the claimants miserably failed to discharge the initial burden of proof, and therefore, in absence of any acceptable oral and documentary evidence on record, the claimants were unable to establish involvement of offending truck in the accident.

10.5 In fifth case of Kalpana Rajendra Kothari and Ors. Vs. Santosh Arvind Jangam and Anr. [*Supra*], this Court observed that, only the certified copy of the First Information Report cannot be said to be the cogent material and conclusive evidence to prove the involvement of the offending motorcycle and the Appeal filed by the original claimants against dismissal of their claim petition was dismissed.

11. The above referred cases relied upon by the learned Advocate for the Appellant – Insurance Company can be distinguished on facts. Coming to the case on hand, as discussed above, the evidence available on record was sufficient to prove the factum of accidental

injuries to the left leg of the Claimant by the use of aforesaid Tractor. For the discussion made above, which is based on the evidence on record, it cannot be said that, the learned Tribunal committed an error in answering the issue of accidental injuries to the Claimant due to rash and negligent driving of the said Tractor, in the affirmative. Hence, I answer the Point No.[I] in the affirmative.

As to Point No.[II] :-

12. It is the contention of the learned Advocate for the Claimant that, though no Appeal or Cross-objection was filed by the Claimant, compensation awarded by the learned Tribunal be enhanced in view of the minimum wages prescribed by the notification dated 03/01/2020 issued by the Ministry of Labour and Employment, New Delhi.

13. In *Jitendra Khimshankar Trivedi Vs. Kasam Daud Kumbhar and Ors.* [*Supra*], the Hon'ble Apex Court enhanced the compensation in favour of the Claimant therein in exercise of the jurisdiction vested in the Hon'ble Supreme Court of India under Section 142 of the Constitution of India to do complete justice.

14. In *Reliance General Insurance Co. Ltd. Vs. MANJU* [*Supra*], the compensation was enhanced in the Appeal preferred by the Insurance Company by observing that, a statutory duty was cast on the Tribunal to award just compensation. The Appeal being continuation of original proceedings the Appellate Court is also bound by the statutory mandate to determine just compensation, notwithstanding the quantum of compensation claimed by the Claimants. The power was conferred under Order XLI 33 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'C.P.C'] to

do complete justice to the parties. It is observed that, there was no restriction to enhance the compensation in appropriate cases even in the absence of cross-appeal or cross-objection.

15. In Oriental Insurance Company Ltd. Vs. Radhika D/o Subhash Bhoyar and Others [*Supra*], the Nagpur Bench in the Appeal filed by the Insurance Company observed that, though the respondents / claimants had not filed appeal or cross-objection, the prayer for enhancement in First Appeal can be considered on its own merits.

16. The other Judgments cited by the learned Advocate for the Claimant are in respect of well settled principles to be borne in mind while deciding the Claim Petition under the M.V. Act, such as, strict principles of proof were not required, just compensation is to be awarded pursuant to Section 166 of the M.V. Act, no stereotypical or myopic approach should be adopted by the Court, there is no restriction that, the Tribunal / Court cannot award compensation amount exceeding the claimed amount, notification of wages can be taken into consideration if income is less than minimum wages and resort to the minimum wages can be made to and the Claimant is required to prove his case on the principles of preponderance of probability and not beyond reasonable doubt.

17. On the other hand, the learned Advocate for the Appellant – Insurance Company submitted that, the Appeal was not filed challenging the compensation awarded by the learned Tribunal and therefore, the submission made by the learned Advocate for the Claimant that compensation be enhanced in this Appeal of the Insurance Company, is liable to be rejected in light of the well settled legal position.

18. In *Ranjana Prakash and Ors. Vs. Divisional Manager and Another [Supra]*, the Hon'ble Apex Court considered the provisions of Order 41 Rule 33 of C.P.C. and it is observed as follows:-

“6. We are of the view that High Court committed an error in ignoring the contention of the claimants. It is true that the claimants had not challenged the award of the Tribunal on the ground that the Tribunal had failed to take note of the future prospects and add 30% to the annual income of the deceased. But the claimants were not aggrieved by Rs.23,134/- being taken as the monthly income. There was therefore no need for them to challenge the award of the Tribunal. But where in an appeal filed by the owner/insurer, if the High Court proposes to reduce the compensation awarded by the Tribunal, the claimants can certainly defend the quantum of compensation awarded by the Tribunal, by pointing out other errors or omissions in the award, which if taken note of, would show that there was no need to reduce the amount awarded as compensation. Therefore, in an appeal by the owner/insurer, the appellant can certainly put forth a contention that if 30% is to be deducted from the income for whatsoever reason, 30% should also be added towards future prospects, so that the compensation awarded is not reduced. The fact that the claimants did not independently challenge the award will not therefore come in the way of their defending the compensation awarded, on other grounds. It would only mean that in an appeal by the owner/insurer, the claimants will not be entitled to seek enhancement of the compensation by urging any new ground, in the absence of any cross-appeal or cross-objections.

7. This principle also flows from Order 41 Rule 33 of the Code of Civil Procedure which enables an appellate court to pass any order which ought to have been passed by the trial court and to make such further or other order as the case may require, even if the respondent had not filed any appeal or cross-objections. This power is entrusted to the appellate court to enable it to do complete justice between the parties. Order 41 Rule 33 of the Code can however be pressed into service to make the award more effective or maintain the award on other grounds or to make the other parties to litigation to share the benefits or the liability, but cannot be invoked to get a larger or higher relief. For example, where the claimants seek compensation against the owner and the insurer of the vehicle and the Tribunal makes the award only against the owner, on an appeal by the owner challenging the quantum, the appellate court can make the insurer jointly and severally liable to pay the compensation, along with the owner, even though the claimants had not challenged the non-grant of relief against the insurer. Be that as it may.

8. Where an appeal is filed challenging the quantum of compensation, irrespective of who files the appeal, the appropriate course for the High Court is to examine the facts and by applying the relevant principles, determine the just compensation. If the compensation determined by it is higher than the compensation awarded by the Tribunal, the High Court will allow the appeal, if it is by the claimants and dismiss the appeal, if it

is by the owner/insurer. Similarly, if the compensation determined by the High Court is lesser than the compensation awarded by the Tribunal, the High Court will dismiss any appeal by the claimants for enhancement, but allow any appeal by owner/insurer for reduction. The High Court cannot obviously increase the compensation in an appeal by owner/insurer for reducing the compensation, nor can it reduce the compensation in an appeal by the claimants seeking enhancement of compensation.”

19. In *United India Insurance Co. Ltd. Vs. Rajani Suresh Bhore and two [2] others [Supra]*, the question before the Single Bench at the Principle Seat for consideration was ‘*when an opponent to the original claim appeals, questioning the quantum of compensation awarded, absent either an appeal for enhancement or cross-objections by the original claimant, can an appellate court directly order enhancement of the compensation? If the mandate under the M.V Act is to award compensation that is ‘just’, can this be done as a matter of course without the appellate court having before it a claimant’s substantive appeal [or cross objections] seeking enhancement?*’ By considering the various Judgments relied upon by the parties therein, the following came to be observed in Paragraph No.42 :

“42. The following principles therefore emerge :

(a) The compensation awarded must be just compensation, neither excessive nor illusory, viz., compensation that is moderate, reasonable and appropriate.

(b) Where it is not, a court in appeal can set it right, irrespective of whether or not a substantive appeal has been filed.

(c) An appeal court can always step in to correct a computational error or one that is facially incorrect, such as the adoption of an incorrect multiplier. No separate or independent appeal or cross-objections are needed for this. The present case is an example.

(d) Where there is need for an adjustment of distribution of the award under various heads with no impact on the overall award, this can always be done by an appeal court without need for a separate appeal (as in the present case).

(e) Where an appeal is filed seeking reduction, an original claimant can, without filing an independent appeal, submit that the original award should be retained without interference.

(f) Where an appeal is filed seeking reduction, a claim for enhancement (i.e., not on maintenance of the original award, nor for correction of an obvious error), or vice versa, cannot be entertained without a substantive appeal or cross-objections as contemplated by Order 41 Rule 22”.

20. In New India Assurance Company Ltd. Vs. Sunita and Others [*Supra*], the Single Bench at Principle Seat by considering the above referred Judgment in the case of Ranjana Prakash and Others Vs. Divisional Manager and Another [*Supra*], the Court observed in Paragraph No.23 as under :-

“23. However, after carefully going through this judgment, it emerges that while enhancing the compensation, the Apex Court exercised jurisdiction under Article 142 of the Constitution of India, which High Court does not possess. Thus, though compensation determined by this Court in the case at hand is more than awarded by the Tribunal, this Court cannot enlarge the scope of this appeal and cannot enhance the compensation more than awarded by the Tribunal. However, by exercising its jurisdiction under Order 41 Rule 33 of the Code of Civil Procedure, this court can only enhance the rate of interest to the extent of 9% p.a. from the date of filing of claim petition till realization of the entire compensation amount.”

21. In the case at hand, admittedly, the quantum of compensation awarded by the learned Tribunal is not attacked by the learned Advocate for the Appellant. Even in the Appeal Memo, the ground of quantum of compensation is not raised. Admittedly, the Claimant has neither filed the Appeal for enhancement of compensation, nor has filed cross objection in this Appeal. Perusal of the above referred notification relied by the learned Advocate for the Claimant reads as under :-

**MINISTRY OF LABOUR AND EMPLOYMENT
NOTIFICATION**

New Delhi, the 3rd January, 2020

S.O. 71(E). - In exercise of the powers conferred by sub-section (1B) of section 4 of the Employee's Compensation Act, 1923 (8 of 1923) and in supersession of the notification of the Ministry of Labour and Employment issued vide number S.O. 1258(E), dated 31st May, 2010; published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated 31st May, 2010, the Central Government hereby specifies, for the purposes of sub-section (1) of the said section, the following amount as monthly wages, with effect from the date of publication of this notification in the Official Gazette, namely :-

“Fifteen thousand rupees”

[F. No.S-37025/03/2016-SS-I]
VIBHA BHALLA, Jt. Secy.

21.1 It is clear from the above notification that, it was in respect of the amendment in the relevant Section of the Act mentioned therein in respect of monthly wages to be paid to the employees defined under the said Act. Whether the Claimant was covered by the provisions of the Act mentioned therein was not the issue before the learned Tribunal, nor in the present Appeal. The effect to the said Notification was given from the date of Publication of the said Notification, which was 03/01/2020. Therefore, reliance placed by the learned Advocate for the Claimant on the said Notification is misplaced. Hence, in light of the above, the contention of the learned Advocate for the Claimant to grant enhanced compensation in tune with the aforesaid notification holds no ground and is liable to be turned down and the same is turned down accordingly. Hence, I answer the Point No.[II] in the negative.

22. In view of the above discussion, following order is passed :-

ORDER

[a] The Appeal is dismissed.

[b] The Civil Application i.e. Civil Application No.13485/2019 for withdrawal of the amount deposited by the Insurance Company before this Court was directed to be decided finally with the Appeal. As the Appeal is dismissed, the said Civil Application is allowed in terms of prayer clause - 'B' and the same stands disposed of.

[NEERAJ P. DHOTE, J.]

Sameer/March-2025