

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEALS Nos. 591 to 596 of 2000

AND

CIVIL APPLICATIONS NOS. 4914 TO 4919 OF 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE D.A.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO. LTD.

Versus

GOVIND RAMDE AHER DECD. THRO' HEIRS RAMDEBHAI LAKHMANBHAI

Appearance:

MR PV NANAVATI for appellants/applicants in all the
appeals/Civil Applications.

MR AMAR D MITHANI for Respondents - claimants in
First Appeals Nos.591, 592, 594, 595, and 596 of 2000
and in C.A.Nos. 4914, 4915, 4917, 4918, and 4919 of 2000.

MR DAKSHESH MEHTA for respondent - National Insurance
Co.Ltd. in all the appeals/Civil Applns.

No one has appeared on behalf of the respondents -
claimants in First Appeal No.593 of 2000 and C.A.No. 4916
of 2000 despite service.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.A.MEHTA

Date of decision: 30/11/2000

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Heard learned Counsel.

These appeals were admitted on 10th July 2000 on the ground that the impugned judgment and award dated 16th March 2000 passed by the Motor Accident Claims Tribunal (Main) at Junagadh, in M.A.C.P.Nos. 27/99, 829/98, 1046/98, 1147/98, 1148/98 and 1149/98 was not a speaking order and the Tribunal decided all these Claim Petitions without giving any reasons.

In response to the notice of admission, Mr.A.D. Mithani has appeared on behalf of the respondentsclaimants in the appeals as mentioned above. We have gone through the award dated 16th March 2000 which is impugned in all these appeals and we find that the Tribunal has not cared to give any reasons nor any evidence has been discussed and the Tribunal has rest contended by only narrating the evidence. Such orders are required to be passed as reasoned orders and the findings have to be recorded on the issues involved in the case more particularly when the orders are appealable. It is the trite law that in such cases unreasoned orders or the orders which are passed as cryptic orders in slipshod manner cannot be sustained. We therefore find that the impugned order which has been passed as a common order in all these six M.A.C. Petitions as above deserves to be set aside and we accordingly set aside the impugned order passed as a common order in all these six M.A.C. Petitions. The matter is remanded to the Motor Accident Claims Tribunal (Main), at Junagadh to hear the arguments of the parties afresh and pass appropriate order supported by reasons in accordance with law.

In these matters when the Civil Applications Nos.4914 to 4919 of 2000 had come up before us on 27th Nov.2000, Mr.P.V.Nanavati had submitted that a sum of Rs.25,000/- in each of these appeals had been deposited in the Registry of this Court at the time of filing of these appeals and he has further stated that the appellant was ready to deposit the amount as awarded by

the Tribunal and we had ordered that he may do so. However, now that the impugned award itself has been set aside, it has been submitted on behalf of the respondents claimants by Mr.Mithani as well as learned Counsel for the appellant Mr.Nanavati that in case the amount is deposited with the Tribunal and even if that amount is invested in Fixed Deposit with any Scheduled Bank, the rate of interest earned would be only 10% whereas the claimants may get the interest at a higher rate when the award is passed afresh and therefore, it may not be necessary to deposit the amount with the Tribunal at this stage and even the amount of Rs.25,000/- which has been deposited in each of these appeals may be returned to the appellant Insurance Company. Mr.Daxesh Mehta appearing on behalf of the respondent National Insurance Company also submits that the said Insurance Company has already deposited the amount as was awarded by the Tribunal and whereas the award has been set aside by this Court, the amount may be returned to the National Insurance Company for the same reason as have been recorded hereinabove.

In the facts and circumstances of these cases, when the award itself has been set aside, the question of depositing the amount and also as to what should be the amount shall arise only when any award is passed in the remanded proceedings and in that case, the concerned parties shall be liable to deposit such amount as may be awarded by the Tribunal. We, therefore, direct that the sum of Rs.25,000/- in each of these appeals deposited by the New India Assurance Company Ltd. may be returned to the concerned Company and it will not be necessary for the said Insurance Company to deposit the rest of the amount with the Tribunal, but it shall be under an obligation to deposit the amount as may be awarded by the Tribunal in the remanded proceedings. Similarly, it will also be open for the respondent National Insurance Company Ltd. to withdraw the amount which had already been deposited with the Tribunal by this Insurance Company and this respondent Insurance Company shall also be under an obligation to deposit such amount as may be awarded by the Tribunal in the remanded proceedings.

With the observations and clarifications of the order dated 27th Nov.2000 passed by this Court in Civil Applications Nos.4914 to 4919 of 2000, we partly allow all these six appeals and direct the Motor Accident Claims Tribunal (Main), at Junagadh, to pass reasoned orders in the remanded proceedings after hearing the arguments of the parties in accordance with law. In the facts and circumstances of these cases, we also direct the Tribunal to give priority to these matters for

hearing and deciding the petitions. It will be open for both the sides to raise all the arguments available to them on merits of the respective cases because we have set aside the impugned order only on the ground that it is not a reasoned order without going into the merits of the case. In the facts and circumstances, the parties are left to bear their own costs.

Since the main appeals have been decided, all the six Civil Applications Nos.4914 to 4919 of 2000 fail. The same are hereby rejected. The notice issued therein is hereby discharged and the order dated 10th July 2000 automatically comes to an end.

(M.R. Calla, J.)

(D.A. Mehta, J.)

Sreeram.