

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

CIVIL REVISION APPLICATION NO. 85 OF 2011

Smt. Shamim Illiyas Shaikh .. Petitioner

Versus

New India Assurance Co. Ltd.
and another .. Respondents

Shri V. S. Bedre, Advocate for the Petitioner.

Shri A. S. Usmanpurkar, Advocate for the Respondent No. 1.

Petition dismissed as against the Respondent No. 2.

CORAM : S. V. GANGAPURWALA, J.

DATE : 20TH AUGUST, 2015.

PER COURT :

1. Mr. Bedre, the learned counsel for the petitioner states that, in fact, as per the judgment delivered by this Court in first appeal the total amount of compensation receivable by present petitioner would be Rs. 12,94,225/-. The respondents deposited an amount of Rs. 7,01,881/-. Upon deposit of said amount the Tribunal disposed of the execution petition as has been satisfied. According to the learned counsel Rs. 4,00,000/- awarded by this Court in addition to the compensation which was awarded by the M. A. C. T. are not included.

2. Mr. Usmanpurkar, the learned counsel for the respondent

No. 1 submits that, the amount of Rs. 4,00,000/- awarded was the total compensation amount including the amount awarded by the Tribunal. As per the judgment of this Court total amount has been deposited.

3. Mr. Bedre, the learned counsel submits that, even this Court can grant compensation more than the amount claimed being a beneficial legislation. When the Court has come to the conclusion that claimants are entitled for an amount of Rs. 5,67,600/-, then the said amount ought to have been awarded.

4. This Court would only see that the execution petition is properly disposed of or not. I have gone through the order passed by this Court in First Appeal No. 348 of 1994. This Court in para No. 19 has observed as under :

"The annual dependency of the deceased would, therefore, be worked out at Rs.33,600/- which is multiplied by the multiplicand of 16 to arrive at total dependency. Thus, the total dependency would come to Rs.33,600/- x 16 = Rs.5,37,600/-. The claimants, in my view, are therefore, entitled to receive total compensation of Rs.5,37,600/-. However, the claim in the petition was only for Rs.4,00,000/-, hence, the grant will be restricted to Rs. 4,00,000/-."

5. Considering the said aspect, it will have to be held that,

this Court has awarded total compensation amount of Rs. 4,00,000/-. If the said amount is considered, the respondent No. 1 has deposited the amount in the execution Court in full satisfaction of the award. The Executing Court has not committed any error while passing the impugned order.

6. The request of Mr. Bedre, the learned counsel to consider award for an amount of Rs. 5,37,600/- cannot be considered, as this Court is not sitting in review. It is the only order in execution petition is assailed. In the light of that, the civil revision application is rejected. No costs.

[S. V. GANGAPURWALA, J.]

bsb/Aug. 15