IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

13 FIRST APPEAL NO/1039/2013
WITH
CIVIL APPLICATION NO. 2569 OF 2016
& CA/5068/2013.

THE NEW INDIA ASSURANCE CO. LTD AND ORS
VERSUS
ASHA ASHOK KHELKAR AND OTHERS
...
Adv. for Appellant : Mr.D P Deshpande;
Mr. Gaikawad Pandurang M., Adv. for Resp.1 to 4.

CORAM : P.R.BORA, J.

DATE : 13th April,2016.

PER COURT :

1) When the present matter was taken up for hearing today, Shri Gaikwad, the learned Counsel appearing for the original claimants, filed on record certified copy of the Award passed in MACP No. 694/2007. The same is taken on record. The learned Counsel submitted that the Award passed in the aforesaid claim petition has been fully satisfied by the insurance company. The learned Counsel further submitted that the aforesaid claim petition was also arising out of the same accident out of which the present claim petition

and the appeal have arisen.

2) Shri Deshpande, the learned Counsel appearing for the insurance company, has conceded the aforesaid fact. The learned Counsel has also placed on record a communication received to him from the insurance company, confirming the fact that the Award passed in MACP No.694/2007 has been fully satisfied by the insurance company. The said communication is taken on record.

3) The learned Counsel appearing for the appellant/insurance company has admitted that the claimant in the present appeal stands at par with the claimant in MACP No.694/2007. When the insurance company has fully satisfied the Award passed in MACP No.694/2007, without challenging the Judgment and Award passed therein, it cannot adopt a different criterion for the claimant in the present appeal filed against the Judgment and Award passed in MACP No. 510/2007, arising out of the same accident. As such, the present

appeal deserves to be dismissed at the admission stage itself and is accordingly dismissed. Pending Civil application, if any, stands disposed of.

4) The original claimants are permitted to withdraw the amount deposited by the appellant/insurance company in satisfaction of the Award in this Court.

(P.R.BORA)
JUDGE

bdv/