

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

**973 FIRST APPEAL NO. 1669 OF 2009
WITH CA/1353/2008 IN FA/1669/2009 WITH
CA/4548/2017 IN FA/1669/2009**

M/S NATIONAL INSURANCE CO LTD .. Appellant
VERSUS
RAGINI SATISH HIWALE AND ORS ..Respondents

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Advocate for Appellant : Shri V.N. Upadhye;
Advocate for Respondents No.1 to 5 : Shri S.L. Bhapkar;
Advocate for Respondents No.6 & 7 : Shri H.U. Dhage.

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CORAM : P.R. BORA, J.
Dated: October 31, 2018

PER COURT :

1. The learned Counsel for the appellant – Insurance Company has tendered across the bar a written pursis and has sought leave to withdraw the appeal filed by the Insurance Company unconditionally. Shri Bhapkar the learned Counsel appearing for the respondents has opposed for permitting such withdrawal stating that, the appellant- Insurance Company has unnecessarily deprived the original claimants from enjoying the fruits of the Awards passed in their favour for long 11 years by filing the present appeal. The learned Counsel submitted that, the amount which could have been available to the claimants way back in the year 2007 will now be received to them (50% of it) in the year 2018. In the circumstances, the learned Counsel has prayed for imposing some exemplary cost on the Insurance Company.

2. In view of the fact that, the Insurance Company has sought unconditional withdrawal of the appeal, the request so made has to be accepted.

3. Insofar as the submission made seeking exemplary cost by the appellant, this Court can award the cost of the appeal and nothing more than that.

4. In view of the above, the following order is passed.

ORDER

(i) The appeal stands dismissed since withdrawn.

(ii) The appellant is liable to pay the cost of the appeal to the respondents.

(iii) The amount deposited by the appellant - Insurance Company in this Court be remitted along with the interest accrued thereon in favour of the original claimants, who are respondents in the present matter.

(iv) Pending Civil Application, if any, stands disposed of.

(**PR. BORA, J.**)