

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD****FIRST APPEAL NO. 1745 OF 2014**

1. The State of Maharashtra,
Through Special Land Acquisition
Officer, (JP-I), Collectorate
Campus, Aurangabad.
2. City and Industrial Development
Corporation Limited, CIDCO
Area, Aurangabad.
Through its Administrator,
CIDCO, New Aurangabad

Appellants.**Versus**

1. Unitech Limited, A company
having its registered office at
Unitech House No.6, Community
Centre, Saket, New Delhi.
A Regional Office at Flat No.1/002,
Building No.22, West and Virar
(West), District Thane, Mumbai.
Through its Regional Manager,
Pramod Raghunath Shridhonkar
Authorized Signatory.

Respondent.

Mr. A.A. Bajaj, Advocate for the appellant/Acquiring Body.
Mr. P.N. Kutti, A.G.P. for the State.
Mr. Yogesh Bolkar, Advocate for the respondent.

**WITH
FIRST APPEAL NO. 1750 OF 2014**

1. The State of Maharashtra,
Through Special Land Acquisition

Officer, (JP-I), Collectorate
Campus, Aurangabad.

2. City and Industrial Development Corporation Limited, CIDCO Area, Aurangabad.
Through its Administrator,
CIDCO, New Aurangabad

Appellants.

Versus

1. Kiran Shantaram Dahanukar
Age : major, occu.: business
R/o Shri Sadan, 4-A, M.L.
Dahanukar Marg, Mumbai.
2. Dilip Shantaram Dahanukar
(Died) through LRs
- 2-a. Pratibhagauri Mehta
Age : major, occu.: household
R/o 6, 1st Floor, Shree Sadan,
M.L. Marg, Cumballa Hill,
Mumbai.
- 2-b. Gopika Dilip Dahanukar
Age : major, occu.: business
R/o 4/A, 1st Floor, Shree Sadan,
M.L. Marg, Cumballa Hill,
Mumbai.
- 2-c. Prafulla Dilip Dahanukar
(Died).
3. Bharat Shantaram Dahanukar
Age : major, occu.: business
R/o as above.
4. M/s Vilaza Hotels Limited
Having its office at Industrial

Assurance Building, IInd Floor,
Church Gate, Mumbai.

Respondents.

Mr. A.A. Bajaj, Advocate for the appellant/Acquiring Body.

Mr. P.N. Kutti, A.G.P. for the State.

Mr. A.P. Bhandari, Advocate for respondent Nos.1 to 4.

**CORAM : T.V. NALAWADE AND
SUNIL K.KOTWAL, JJ.**

Judgment reserved on : 8 February 2019.

Judgment pronounced on : 22 February 2019

JUDGMENT (Per Sunil K. Kotwal).

1. First Appeal No.1745 of 2014 is filed by State of Maharashtra and Acquiring Body i.e. City and Industrial Development Corporation (CIDCO) against the judgment and award passed by Civil Judge, Senior Division, Aurangabad in Land Acquisition Reference No.134/2002. First Appeal No.1750 of 2014 is also filed by State of Maharashtra and CIDCO against the judgment and award passed by same Court in Land Acquisition Reference No.167/2002.

2. Respondents in both appeals are original claimants.

3. The details in respect of the land acquired in respective Land References, area of acquired land, name of

owners of acquired land in respective Land References and rate of compensation awarded by Special Land Acquisition and the Reference Court are specified as under :-

LAR No.	Land Gut No.	Total area acquired	Name of owner	Rate offered by SLAO	Rate awarded by Ref.Court.
134/2002	114, 115, 116 & 117	2 H. 92 R.	Unitech Limited.	Rs. 2900/- per R for Group-I & Rs.3000/- per R for Group-II.	Rs. 196 per Sq.mtr.
167/2002	114, 115, 116 & 117	9 H. 72 R.	1. Kiran Shantaram Dahanukar, 2. Dilip Shantaram Dahankar, 3. Bharat Shantaram Dahanukar and 4. M/s Vilaza Hotels Ltd.	Rs. 2900/- per R for Group-I & Rs.3000/- per R for Group-II.	Rs. 196 per Sq.mtr.

4. Undisputed facts in between the parties are that, the acquired land is situated at village Tisgaon. The purpose of acquisition is Waluj Mahanagar Development, Phase-1 and Phase-2. Notification under Section 126 (4) of the Maharashtra

Regional Town Planning Act (hereinafter referred to as “M.R.T.P. Act”) was published in Official Gazette on 19.03.1998. The award was passed on 02.06.2001. Notice under Section 12 of the Land Acquisition Act was issued to the claimants on 08.10.2001 and the compensation awarded by the Land Acquisition Officer was accepted under protest by the claimants on 08.10.2001. The compensation was awarded by Special Land Acquisition Officer at the rate of Rs. 2,900/- per Aar for Group-I and Rs.3,000/- per Aar for Group-II of the acquired land. The claimants in both Land References claimed compensation at the rate of Rs. 1076/- per sq. mtrs. and the Reference Court awarded compensation at the rate of Rs. 196/- per sq. mtrs. Initially the date of delivery of possession was in dispute in between the parties. However, at the stage of appeal, when the appellants filed possession receipts (Exh. C-1 and C-2) dated 08.10.2001, the execution of possession receipts is admitted by the learned Counsels for the claimants. Thus, the possession of acquired land was obtained by CIDCO from the claimants on 08.10.2001 i.e. after the date of passing of award. Being aggrieved with the rate of compensation awarded by the Reference Court, these both appeals are filed by the State

of Maharashtra and CIDCO, Aurangabad.

5. Heard Mr. A.S. Bajaj, learned Counsel for the Acquiring Body and learned Additional Government Pleader for the State. Mr A.P. Bhandari and Mr. Yogesh Bolkar learned Counsels argued for the respective respondents / claimants.

6. Learned Counsel for the appellants assailed the judgment passed by the Reference Court by submitting that the Reference Court erroneously considered the sale instance of the small non-agricultural plot, which is not adjoining to the acquired land. He submits that in fact the claimants have filed two sale deeds (Exhs. 37 and 38) of the small plots out of Gut No.98 situated at village Tisgaon and the third sale deed (Exh.39) dated 21.04.1998 of Gut No.183 is regarding the sale of 81 Aar land. He submits that Gut No. 183 is comparatively nearer to the acquired land and this sale deed being of reasonable larger area of the land in comparison with the area of the acquired land, which is more than 12 Hectare, should have been considered by the Reference Court as comparable sale instance. To substantiate this contention he placed reliance on the cases of **“Chimanlal Hargovinddas Vs. Special Land**

**Acquisition Officer, Poona” [1988 (3) SCC 751] and
“Vitthalrao and another Vs. Special Land Acquisition
Officer” [(2017) 8 SCC 558].**

7. The next objection raised by learned Counsel for the appellants is that the learned Reference Court awarded interest on the compensation awarded by Land Acquisition Officer under Section 34 of the Land Acquisition Act from 24.01.1995 i.e. before the date of publication of notification under Section 126 (4) of M.R.T.P. Act. He submits that the award of such interest under Section 34 of the Land Acquisition Act is bad-in-law and if the possession is delivered to the Acquiring Body before the date of notification under Section 126 (4) of M.R.T.P. Act, then the interest under Section 34 of the Land Acquisition Act can be granted only from the date of award i.e. from 02.06.2001. He submits that at the most the claimants can claim rental compensation from the date of delivery of possession till the date of passing of award, if it is proved that possession of the acquired land was delivered before the date of publication of notification under Section 126 (4) of the M.R.T.P. Act. To substantiate this contention he placed reliance on the cases of **“R.L. Jain Vs.**

DDA and others” (AIR 2004 SC 1904) and “State of Maharashtra VS. Kailash Shiva Rangari” (AIR 2015 Bombay 141).

8. The next contention of learned Counsel for the appellants is that, if possession of the acquired land is taken before the date of publication of notification under Section 126 (4) of the M.R.T.P. Act, the claimants are not entitled to additional amount of component under Section 23 (1A) of the Land Acquisition Act, as awarded by the Reference Court. To substantiate this contention he placed reliance on the case of **“Revenue Divisional Officer, Kurnool Vs. M. Ramakrishna Reddy” [(2011) 11 SCC 648].**

9. The next contention of learned Counsel for the appellants is that, if it is proved that possession of the acquired land is taken after publication of notification under Section 126 (4) of M.R.T.P. Act, the interest under Section 28 of the Land Acquisition Act on the enhanced compensation can be awarded only from the date of delivery of possession till deposit of compensation amount. However, learned Reference Court

awarded interest from the date of notification under Section 4 (1) of the Land Acquisition Act, which is erroneous.

10. The next contention of learned Counsel for the appellants is that, though the acquired land was agricultural land on the date of acquisition, the learned Reference Court did not make any deductions towards development charges.

11. In reply, learned Counsels for the respondents / claimants supported the judgment and the rate of compensation awarded by the Reference Court, on the ground that even sale deed of the small plot can be considered as a comparable sale instance, if the sale deed of large plot is not available. He submits that in view of the case of **“Chimanlal Hargovinddas”** (supra), even post-notification sale instance can be considered, provided it is proximate to the date of publication of notification under Section 4 (1) of the Land Acquisition Act (Section 126 (4) of M.R.T.P. Act).

12. The next contention of the learned Counsels for the respondents /claimants is that as per the terms of tripartite agreement (Exh.48), the claimants are entitled to interest on compensation amount from 21.01.1995 i.e. date of delivery of

possession to the Acquiring Body till the date of passing of award. However, they fairly concede that in the agreement (Exh.48) no specific clause is available to indicate on which date the possession is delivered to the CIDCO by the claimants.

13. The next contention of the learned Counsels for the respondents / claimants is that as possession of the acquired land was obtained prior to the date of publication of notification under Section 126 (4) of M.R.T.P. Act, the claimants are entitled to damages from the date of possession till the date of passing of award on compensation awarded by the Collector. They submit that under such circumstances even the interest under Section 28 of the Land Acquisition Act is payable from the date of publication of notification under Section 126 (4) of M.R.T.P. Act on enhanced compensation. However, they fairly concede that if the possession is taken prior to the notification under Section 126 (4) of M.R.T.P. Act, then the claimants would not be entitled to component under Section 23 (1A) of the Land Acquisition Act.

14. Regarding deduction towards development charges the contention of learned Counsels for the respondents / claimants is that, the Planning Authority was appointed on

07.10.1991 and notification under Section 126 (4) of M.R.T.P. Act was published on 19.03.1998. The acquired land has huge N.A. potential, and therefore, the deduction of 15% made by the Reference Court is appropriate and needs no interference. In brief, the contention of learned Counsels for the respondents / claimants is that the award passed by Reference Court is correct proper and needs no interference. They placed reliance on the cases of **“State of Maharashtra Vs. Kailas Rangari”** (cited supra), **“Siddappa Vasappa Kuri & anr. Vs. Special Land Acquisition Office and another”** (AIR 2001 SC 2951), **“Revenue Divisional Officer, Kurnoor Vs. M. Ramakrishna”** (cited supra), **“Delhi Development Authority Vs. Balram Sharma and others”** (AIR 2004 SC 4114), **“Special Land Acquisition Officer Vs. Karigowda & ors”** (AIR 2019 SC 2322), **“R.L. Jain Vs. DDA & ors”** (cited supra) and **“Sunder Vs. Union of India”** (AIR 2001 SC 3516).

15. For determining fair market value of the acquired land on the date of publication of notification under Section 126 (4) of M.R.T.P. Act, the comparable sale instance method is the

most appropriate and approved method by the Apex Court. In the case of “**Chimanlal Hargovinddas**” (supra), following guidelines have been laid down by the Apex Court, which hold the field till today.

“ (1) A reference under Section 18 of the Land Acquisition Act is not an appeal against the award and the Court cannot take into account the material relied upon by the Land Acquisition officer in his Award unless the same material is produced and proved before the Court.

(2) So also the Award of the Land Acquisition officer is not to be treated as a judgment of the trial Court open or exposed to challenge before the Court hearing the Reference. It is merely an offer made by the Land Acquisition officer and the material utilised by him for making his valuation cannot be utilised by the Court unless produced and proved before it. It is not the function of the Court to suit in appeal against the Award, approve or disapprove its reasoning, or correct its error or affirm, modify or reverse the conclusion reached by the Land Acquisition officer, as if it were an appellate court.

(3) The Court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it.

(4) The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the Court. Of course the materials placed and proved by the other side can also be taken into account for this purpose.

(5) The market value of land under acquisition has to be determined as on the crucial date of publication of the notification under sec. 4 of the Land Acquisition Act (dates of Notifications under secs. 6 and 9 are irrelevant).

(6) The determination has to be made standing on the date line of valuation (date of publication of notification under sec. 4) as if the valuer is a hypothetical purchaser willing to purchase land from the open market and is prepared to pay a reasonable price as on that day. It has also to be assumed that the vendor is willing to sell the land at a reasonable price.

(7) In doing so by the instances method, the Court has to correlate the market value reflected in the most comparable instance which provides the index of market value.

(8) only genuine instances have to be taken into account. (some times instances are rigged up in anticipation of acquisition of land).

(9) Even post notification instances can be taken into account.(1) if they are very proximate,(2) genuine and (3) the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects.

(10) The most comparable instances out of the genuine instances have to be identified on the following considerations:

- (i) proximity from time angle,
- ii) proximity from situation angle.

(11) Having identified the instances which provide the index of market value the price reflected therein may be taken as the norm and the market value of the land under acquisition may be deduced by making suitable adjustments for the plus and minus factors vis-a-vis land under acquisition by placing the two in juxtaposition.

(12) A balance-sheet of plus and minus factors may be drawn for this purpose and the relevant factors may be evaluated in terms of price variation as a prudent purchaser would do.

(13) The market value of the land under acquisition has there after to be deduced by loading the price reflected in the instance taken as norm for plus factors and unloading it for minus factors.

Plus factors

1. smallness of size.
2. proximity to a road. `
3. frontage on a road.
4. nearness to developed area
5. regular shape.

Minus factors

1. largeness of area.
2. situation in the interior at a distances from the Road.
3. narrow strip of land with very small frontage compared to death.
4. lower level requiring the depressed portion to be filled up.
5. remoteness from developed locality.

6. level vis-a-vis land
under acquisition.

6. some special
disadvantageous
factor which
would deter a
purchaser.

7. special value for an owner
of an adjoining property
to whom it may have some
very special advantage. “

16. The same guidelines are reiterated by the Apex Court in the case of “**Vitthal Rao**” (supra). The sale instance is to be of the land nearby or adjacent to the acquired land and date of sale to be proximate to the date of acquisition, possessing similar advantages.

17. In the instant case, common sale instances have been filed by both the claimants in Land Acquisition Reference No.167/2002. The sale instances filed by the claimants are the sale deed dated 01.07.1997 (Exh.37) of the land admeasuring 271.58 sq.mtr. out of Gut No. 98 of N.A. plot and sale deed dated 09.05.1997 (Exh.38) of the N.A. plot admeasuring 325.65 sq. mtr. out of Gut No. 98 situated at Tisgaon. The third sale instance is the sale deed dated 21.04.1998 (Exh.39) in respect of Gut No.183

admeasuring 81 Aar situated in the same village. Out of these three sale deeds, we have to choose only one as comparable sale instance considering the proximity of the date of execution of sale deed with the date of publication of notification under Section 126 (4) of M.R.T.P. Act, quality of the land and advantageous factors annexed to the land under sale deed and annexed to the acquired land.

18. After going through the village map of village Tisgaon, it emerges that Gut No.98 is at long distance from the acquired land in comparison with the location of Gut No.183. Out of the acquired land some portion of Gut No.114 is abutting Aurangabad to Ahmednagar road. Similarly, Gut No.183 is also abutting the same road. The sale deed dated 21.04.1998 (Exh.39) out of Gut No.183 is in respect of the agricultural land. Similarly, from the cross examination of claimant Kiran Dahanukar (PW-1), it emerges that on the date of publication of notification under Section 126 (4) of M.R.T.P. Act, the acquired land was agricultural land and that land was not converted into non-agricultural land. The total area of the acquired land is 12 Hectare 60 Aar. Similarly, the area under sale deed dated

21.04.1998 (Exh.39) is 81 are, which is more than 2 Acres and reasonable a larger piece of the land than the small plots which were subject matter of the sale deeds (Exhs. 37 and 38). Considering the date of publication of notification under Section 126 (4) of M.R.T.P. Act i.e. 19.03.1998, the sale deed dated 21.04.1998 (Exh.39) is the most proximate to the date of publication of the said notification.

19. No doubt, the sale instance dated (Exh.39) is post-notification, but its genuineness is never doubted by the learned Counsel for the appellants. On the other hand, in the case of **“Chimanlal Hargovinddas”** (supura), the Apex Court has made it clear that even post-notification sale instances can be taken into account if they are very proximate, genuine and acquisition itself has not motivated the purchaser to pay higher price on account of resultant improvement in development prospects. Thus, in comparison with sale instances (Exhs. 37 and 38) the sale instance (Exh.39) of Gut No.183 is the most appropriate comparable sale instance, considering its proximity from time angle and situation angle as well as quality of land in comparison with the acquired land. Even at the stage of

argument the learned Counsels for both the parties tried to place reliance on sale deed dated 21.04.1998 (Exh.39) out of Gut No.183 to determine the fair market price of the acquired land. Under these circumstances, we have no hesitation to hold that the sale deed dated 21.04.1998 (Exh.39) of 81 Aar agricultural land out of Gut No.183 is the appropriate comparable sale instance which can be used to determine the fair market value of the acquired land on the date of publication of notification under Section 126 (4) of M.R.T.P. Act.

20. After going through the sale instance (Exh.39), it emerges that on the southern side of this land Aurangabad to Ahmednagar road is abutting. Advantageous factors annexed to the land under sale instance (Exh.39) are identical to the advantageous factors annexed to the acquired land. The recitals of this sale deed show that out of Gut No.183, total area 5 Hectare 12 Aar, only 81 Aar is sold out by the owner to Eknath Mithe and Vijay Salve for the total consideration of Rs. 8,30,250/-. Thus, the market rate of this land is Rs. 10,250/- per Aar. This sale deed was executed within one month after the date of publication of notification under Section 126 (4) of M.R.T.P. Act.

Therefore, the question of escalation in the market value of this land does not arise.

21. However, it cannot be ignored that the purpose of acquisition of the acquired land admeasuring more than 12 Hectare is for the purpose of development of Waluj Mahanagar Project. No doubt, location of the acquired land near Aurangabad to Ahmednagar road indicates that it has high N.A. potentiality. However, it cannot be ignored that in comparison with area of the acquired land, the land under sale instance (Exh.39) is a small piece of land. So also, for utilisation of the acquired land for development of Waluj Mahanagar Project, there would be heavy development in the form of construction of site roads, internal roads, sewages, open space, electric poles, water supply pipelines and other amenities essential for residential or commercial purpose. Learned Counsel for the respondents / claimants, on the point of deductions, placed reliance on the cases of **“Trishala Jain and another Vs. State of Uttaranchal” (AIR 2011 SC 2458)**, **“Chakas Vs. State of Punjab & ors” [(2011) 12 SCC 128]**, **“Sanathkumar Vs. Special Tahsildar” [2012 AIR (SCW) 819]**, **“Sabhia Mohd.**

Vs. SLAO and others” [2012 AIR (SCW 3986], “Mohinder Singh & ors. Vs. State of Haryana” [(2014) 8 SCC 897], “Patel Jathabhai Punajbhai Vs. North Gujarat University and anr.” [(2015) 3 SCC 650], “Indian Council of Medical Research Vs. T.N. Sanikop and others” [2015 AIR (SCW) 133], “Kasturi and others Vs. State of Haryana” (AIR 2003 SC 202), “ Mehrawal Khewaji Trust Vs. State of Punjab” [2012 AIR (SC) 2721] and “Radha Mudaliya Vs. Special Tahsildar” (AIR 2011 SC 54).

22. Even learned Counsel for the appellants has placed reliance on the case of **“Chimanlal Hargovinddas”** and **“Indian Counsel of Medical Research”** (supra).

23. We have gone through all the above Authorities. The ratio of these all Authorities is that, there cannot be straitjacket formula for percentage of deduction towards development of large chunk of plot. The Court has to consider the purpose of acquisition, nature of acquired land, surrounding development and other relevant factors. In the case at hand, on the date of acquisition, the acquired land was the agricultural land having

N.A. potentiality. The purpose of acquisition is for development of Waluj Mahanagar Project. Even in the cross examination claimant Kiran (PW-1) has admitted that he has cultivated these lands and non-agricultural proceeding pertaining to the land in question was in process at the time of acquisition of land. Thus, it becomes clear that on the date of acquisition the acquired land was not developed in any manner for N.A. purpose. Thus, obviously huge development is required for utilising the acquired land for Waluj Mahanagar Development Project. In the case of **“Lal Chand Vs. Union of India” reported in [(2009) 15 SCC 769]**, the Apex Court made it clear that deduction for development consists of two components. The first is with reference to the area required to be utilised for development works and the second is the cost of development works. It is also well known that development cost incurred by statutory agencies is more higher than the cost incurred by private developers, having regard to higher overhead and expenditure. Thus, the CIDCO, being statutory agency, the cost of development would be much higher than the cost incurred by private developers. In the circumstances, the development charges deducted by reference

Court at the rate of Rs. 15% are negligible.

24. We hold that considering the nature of the acquired land, purpose of acquisition and required future development, there shall be more than 40% deductions from the prevailing market value of the acquired land on the date of publication of notification under Section 126 (4) of the M.R.T.P. Act. Thus, after deducting 40% value from the market value of the acquired land, which is calculated on the basis of sale instance (Exh.39) at the rate of Rs. 10,250/- per Aar, the fair and true market value of the acquired land is assessed as Rs. 6,150/- (Rupees Six Thousand One Hundred and Fifty) per Aar. The claimants are entitled to compensation at the rate of Rs.6,150/- per Aar.

25. Though learned Counsel for claimants submits that in First Appeal No. 1794 of 2013 for the land acquired at Tisgaon this Court awarded compensation at the rate of Rs.10,875/- per Aar for dry crop land and Rs. 21,775/- per Aar for irrigated land, the same rate cannot be granted in the case at hand, for the simple reason that the learned Counsel for appellant has made statement before the Court that against the judgment and award passed by this Court in First Appeal No.1794 of 2013 the CIDCO

has already approached the Supreme Court. As the award passed in the said appeal has not reached to finality, compensation at the rate awarded in that appeal cannot be adopted in the present appeals.

26. As observed above, the execution and signatures on possession receipts (Exhs. C-1 and C-2) of the acquired land dated 08.10.2001 is an admitted fact in between the parties. Though initially the claimants contended that the possession of the acquired land was obtained before the date of notification i.e. 24.01.1995, neither tripartite agreement (Exh.48) shows the date of possession as 24.01.1995 nor any possession receipt is proved by the claimants to prove their contention. On the other hand, in view of possession receipts (Exhs.C-1 and C-2) filed by the appellants, only one conclusion is to be drawn that CIDCO obtained possession of the acquired land from the claimants on 08.10.2001 i.e. after the date of publication of notification under Section 126 (4) of the M.R.T.P. Act on 19.03.1998. As possession of the acquired land is obtained on 08.10.2001 i.e. after passing of the award on 02.06.2001, no question of payment of rental compensation to the claimants arises.

27. As the claimants have received compensation amount on 08.10.2001, no interest on compensation awarded by the Collector is payable to the claimants under Section 34 of the Land Acquisition Act. However, the claimants are entitled to component under Section 23 (1A) of the Land Acquisition Act at the rate of 12% per annum on market value of the acquired land from the date of publication of notification under Section 126 (4) of the M.R.T.P. Act i.e. from 19.03.1998 to 02.06.2001 i.e. the date of declaration of award, which is earlier than the date of taking possession of the acquired land.

28. The claimants are also entitled to solatium of 30% on market value of the acquired land under Section 23 (2) of the Land Acquisition Act. In addition to this, the claimants are entitled to interest under Section 28 of the Land Acquisition Act on the enhanced compensation (excess compensation than awarded by the Collector) at the rate of Rs. 9% per annum from the date of possession 08.10.2001 for one year and thereafter at the rate of Rs. 15% per annum till deposit of enhanced compensation together with solatium and component amount in the Court.

29. The award passed by the Reference Court needs to be modified accordingly.

30. In the result, First Appeal No.1745 of 2014 and First Appeal No. 1750 of 2014 are partly allowed and the award passed by the Reference Court in L.A.R. No. 134/2002 and L.A.R. 167/2002 be modified in the above-said terms.

31. The claimants have already withdrawn 25% compensation amount, which is deposited in this Court. Office to return the remaining 75% deposited amount to appellant No.2.

32. The appeals are disposed of. Parties to bear their respective costs of the appeals.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE

33. The operation and execution of the award passed by this Court is stayed for a period of 8 weeks.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE