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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 1273 OF 2018
WITH
CIVIL APPLICATION NO. 4342 OF 2018
IN
FIRST APPEAL NO. 1273 OF 2018**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Nikhil Mehta I/b KMC Legal Venture for the Appellant.
Mr. Nitesh Wable I/b Umesh R. Mankapure for Respondent Nos.1 to 4.

CORAM : K. K. TATED, J.
DATE : 3rd APRIL, 2019.

P. C. :

1. Not on board. At the request of learned Counsel for the Appellant, taken on production board.
2. Heard learned Counsel for the parties.
3. Both the Counsel submit that the matter is settled out of Court. They tendered Consent Terms dated 03.04.2019 duly signed by Claimants as well as Appellant and their respective Advocates.
4. Learned Counsel Shri Wable for the Respondents submits that the Respondent Nos.1 and 4 are present in Court. They entered into the witness box. They admit that the Consent Terms are explained to them in their language. They also admit the contents of the Consent Terms and

the execution of the same. Hence, the Consent Terms are taken on record and marked 'X' for identification which reads thus:

"CONSENT TERMS

- 1 *The Appellant, herein has filed the abovementioned First Appeal, challenging the Judgment and Award in MACP-138 OF 2013, by which the Appellant has been held liable to pay the compensation of Rs.17, 71,000/- inclusive of N.F.L. amount /- alongwith interest @ 7 %.*
- 2 *The Respondents No.1 to 5 are the original claimants, Resp. No. 2 and 3 are appearing through their natural guardian mother Mrs. Archana Chavan, the Resp. No.1. The Resp.No.1 further states, that, she is sole natural guardian of the Minor Respondent No.2 and 3 and there is no other person, claiming to be the Natural guardian of the minor Respondent No: 2 and 3.*
- 3 *Considering the issue involved in the Appeal being limited to the point of quantum of compensation payable, the Appellant and the Respondent no.1 to 5 have decided to compromise the matter. The natural guardian of the Respondent No. 2 and the Respondent No. 3, considering the interest of the minors and their ages, claimants feels it appropriate that the matter should be settled at this point of time and therefore, the parties hereto are entering into the present consent terms.*
- 4 *The Respondent No.1 to 5 hereby agrees to compromise the matter, by accepting the **principal** amount of Rs 17, 71,000/- (Rs. Seventeen Lacs Seventy One Thousand only/-) towards full and final satisfaction/settlement of their claim for compensation and in full and final satisfaction of the impugned judgment and award dated 03/02/2018.*
- 5 *The Respondent No: 1 to 5, hereby undertakes and gives up any further claim/right/ to seek any further amount as and by way of compensation*

from the Appellant, by any legal proceedings and further agrees and assures the Appellant, that, she or any other person claiming to be the Legal Heir of the deceased or any other person claiming to be Natural Guardian of the minor Respondent No. 2 and 3 will not file any other proceedings making any further claim for compensation. The Respondent No. 1 to 5, further agrees if in future, if the above mentioned contingency/claim arises, then, the Respondent No. 1 to 5 would be sole liable to defend the same and the Appellant will not be liable to make any further payment, whatsoever.

- 6 Considering the above position, the Appellant hereby wishes to settle the claim of the Respondent/claimants (Respondent No: 1 to 5), by compromising the matter at this stage since the Appeal is primarily filed on the point of quantum.*
- 7 The Appellant hereby agrees to settle the claim of the Respondent No: 1 to 5 by making full and final payment of Rs.17, 71,000/-(Rs. Seventeen Lacs Seventy One Thousand only/-).*
- 8 The said amount of Rs 17, 71,000/- will be deposited in the MACT, Sangli within 4 weeks from today. The Appellant, will be entitled to withdraw the amount of Rs. 25, 000/- deposited by the Appellant U/Sec.173 of M. V. Act, 1988 at the time of filing of Appeal. Parties agree to have no objection for the transfer of Rs. 25, 000/- deposited in this Hon'ble High Court to be transferred to MACT, Sangli, with further liberty to the Appellant to have withdrawn the same.*
- 9 The Parties hereby jointly agree for the modification of the Award passed in the MACP No.138 of 2013 @ Sangli, in above terms and the request the Hon'ble High Court to modify the Award passed therein accordingly.*
- 10 Since the Appeal being on the point of quantum the Notice to the remaining Respondents is obviated.*

11 The impugned Judgment and Award be modified in above terms.

12 The amount of Rs. 25, 000/- deposited by the Appellant towards compliance of Sec. 173 of the M.V.Act,1988 be transferred to the MACT, Sangli and the Appellant be allowed to kindly withdraw the same.

*Dated:
Mumbai*

Smt. Archana Malhar Chavan

Applicant No:1

Sakshi Malhar Chavan

Applicant No:2

For Yash Malhar Chavan

Applicant No:3

Alka Baban Chavan

Applicant No:4

Baban Maruti Chavan

Applicant No:5

*IDENTIFIED BY US:
KMC Legal Venture*

*Partner
Advocates for the Appellant*

For Mr.Umesh Mankapure

Advocates for the Respondent No.1 to 5"

5. Learned Counsel appearing on behalf of the Respondents-original Claimants filed Certificate dated 03.04.2019 stating that the present settlement is in the interest of minor also. The same is taken on record and marked 'X-1' for identification. He also filed Affidavit of Smt. Archana Malhar Chavan dated 25.03.2019. Same is taken on record.
6. Learned Counsel for the Appellant submits that they will deposit the entire amount as per Consent Terms in the Tribunal within four weeks from today.
7. Learned Counsel for the Respondents submits that they have no objection if the Tribunal invests the share of the minor in fixed deposit of any nationalized bank till he attains the majority. Hence, the Tribunal is directed to do so.
8. Consent Terms are accepted and be treated as part and parcel of the decree.
9. First Appeal as well as Civil Application stand disposed of in view of Consent Terms.

[K. K. TATED, J.]