

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BEFORE THE NATIONAL LOK ADALAT
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 757 OF 2016

National Insurance Co. Ltd.
Through Its Mumbai Regional Office- II. Appellant
Versus
Reshma Rajendra Kadam and Ors. Respondents

Appearances :-

Ms. Harshada Rane for the Appellant.
Mr. B.A.Lawate for the Respondents.

**CORAM : R. Y. GANOO, J., (Retired)
SHRI. Y. A. RANE,
(Registrar (Inspection-II)) &
SHRI. V.V. MUGLIKAR,
(Deputy Registrar (Inspection-II))**

DATE : 14th SEPTEMBER, 2019

PC :

1. Respondent Nos.1 to 5 are present in the Court.
Respondent Nos.2 and 3 are minor daughters of deceased Rajendra Kadam. Respondent No.4 is the minor son of deceased Rajendra Kadam.
2. Consent Terms dated 14/09/2019 signed by Mr. I. A.

Sayyed, Manager of the Appellant/Insurance Company, Mrs. Harshada Rane, Advocate for the Appellant, Mr. B.A. Lawate, Advocate for Respondent Nos.1 to 5, Respondent No.1 in her capacity as self and guardian of Respondent Nos. 2 to 4 and Respondent No.5, are tendered. A reading of the Consent Terms shows that parties herein have settled the matter and the Respondents have agreed to receive in all Rs.8,62,784/- from the Appellant/Insurance Company in full and final settlement of the claim arising out of Claim Petition No. 13/2014 decided by the Learned Member, Motor Accident Claims Tribunal, Solapur. It is agreed between the parties that on payment of Rs.8,62,784/- to Respondent Nos.1 to 5, the claim against the Appellant/Insurance Company would get settled. We are satisfied that considering the facts of the case, the settlement for a sum of Rs.8,62,784/- is in the interest of the parties. In view of the above, the Consent Terms are taken on record which are marked as **X-for Identification** . The Respondent No.1 and Respondent No.5 admit their respective signatures.

3. Following Decree is passed in the place of Award passed by the Learned Member, Motor Accident Claims Tribunal, Solapur dated 07/05/2015.

DECREE

1. The Appellant and Respondent Nos.1 to 5 have agreed to settle the matter for a total sum of Rs.8,62,784/-.

2. Learned Advocate for the Appellant states that the Appellant has in all deposited in the Motor Accident Claims Tribunal, Solapur a sum of Rs.9,80,682/- in the year 2015 and the said amount is invested in Fixed Deposit in a Nationalized Bank and is earning interest which is also added to the principal of Rs.9,80,682/-. The Member of Motor Accident Claims Tribunal, Solapur shall encash the said F.D.R. wherein a sum of Rs.9,80,682/- is invested. From the total proceeds of the said F.D.R., the Motor Accident Claims Tribunal shall deduct a sum of Rs.9,80,682/- and the amount in excess of 9,80,682/- would be treated as Accrued Interest. Out of sum of Rs.9,80,682/-, the Member, Motor Accident Claims Tribunal shall keep a sum of Rs.8,62,784/- for disbursement to Respondent Nos.1 to 5 and the remaining amount out of Rs.9,80,682/- would be paid to the Appellant.

3. Out of the interest which is titled as 'Accrued Interest' in the earlier part of this order, 70% of the amount be paid over to Respondent

No.1 without guarantee or security and 30% of the 'Accrued Interest' be paid to the Appellant.

4. The office of the Motor Accident Claims Tribunal, Solapur shall arrange to disburse the amount of Rs. 8,62,784/- in favour of Respondent Nos.1 to 5 in the following manner.

(a) Out of the sum of Rs.8,62,784/- a sum of Rs.1,00,000/- will be paid to Respondent No.5 – father of Rajendra Kadam towards compensation without security or guarantee.

(b) A sum of Rs.1,00,000/- each will be invested in the name of Respondent Nos.2,3 and 4 respectively in a Nationalized Bank till Respondent Nos.2,3 and 4 attain the age of majority on quarterly interest basis. On attaining the age of majority, the principal amount and the interest, if any, payable at the time when respective Respondent would be attaining the age of majority will be paid to respective Respondent.

(c) The quarterly interest accrued on the sum of Rs.1,00,000/- will be paid to Respondent No.1 for the maintenance of Respondent Nos.2,3 and 4 respectively. Respondent No.1 undertakes to utilize the said interest amount for the benefit of the respective Respondent.

(d) After the aforesaid amount is disbursed, paid/invested, the sum of Rs.4,62,784/- remains to be disbursed. Out of this sum of Rs.4,62,784/-, the sum of Rs.2,00,000/- be invested in the name of Respondent No.1 for a period of 3 years on quarterly interest basis. The interest accrued on this sum of Rs.2,00,000/- would be paid to Respondent No.1, who would be free to utilize the said interest amount for her personal use. Balance sum of Rs.2,62,784/- be paid to Respondent No.1 without guarantee or security.

5. There shall be no order as to costs.

6. The Appellant had deposited a sum of Rs.25,000/- which is termed as statutory fees at the time of filing this appeal. The said amount and accrued interest, if any, on the said amount of Rs.25,000/- be paid over to the Appellant.

7. Refund of Court fee is granted as per rules.

(V.V.MUGLIKAR)

(Y.A. RANE)

(R.Y.GANOO, J.)