

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

FIRST APPEAL NO.285 OF 2008

**WITH
CIVIL APPLICATION NO.1094 OF 2019
IN
FIRST APPEAL NO.285 OF 2008**

The National Insurance Co. Ltd. Appellant/
Applicant

versus

Rajendra Saverna Singh (since deceased)
through LR
Smt. Basant Rajinder Singh Saini & Ors.----- ... Respondents

.....

- Ms.Poonam Mittal, Advocate for Appellant/Applicant.
- Ms.Swati Mehta, Advocate for Respondent.

CORAM : SARANG V. KOTWAL, J.,

**SHRI S. R. KHANZODE
(Retired Principal District Judge) &**

**SHRI S. T. KAPSE,
(Addl. Registrar, (O.S.) /
Addl. Prothonotary & Senior Master**

DATE : 17th MARCH, 2019 (SUNDAY)

P.C. :

1. Not on board. Upon mentioning, taken up on
production board.

2. The Appellant herein are the insurance company, who are the insurers for Respondent No.2 M/s. Parmar Transport Co. By award dated 16/11/2006, the Commissioner for Workmen's Compensation & Judge, 1st Labour Court, Mumbai, in Original Application (WCA) No.154-C-58/2002 had ordered payment of Rs.5,16,672/- with interest at the rate of 12% per annum from the date of the accident till date of order and further interest at the rate of 12% per annum on the compensation amount from the date of order till payment of actual payment. The said order is challenged before the Court by the Appellant.

3. During the pendency of the First Appeal, the Respondent No.1, the original claimant had expired on 16/09/2018. He is survived by his widow Smt.Basant Rajindar Singh Saini, two minor children Gaurav Saini and Tisha Saini. Today Smt. Basant Saini is present before us. She is representing her two minor children namely Gaurav and Tisha.

4. On behalf of Appellant Ms.Poonam Mittal is present.
5. Smt.Basant Saini has tendered an affidavit mentioning that her husband had died on 16/09/2018 during pendency of the Appeal. It is further averred in the affidavit that after his death, she and her family members are in dire need of money. In the past, the High Court had permitted her husband to withdraw 50% of the amount. Remaining 50% i.e. Rs.2,65,484/- is lying with the office of Commissioner for Workmen's Compensation, Bandra, Mumbai, vide FDR No.7855.
6. She is praying that since the parties have settled the matter and entered into the Consent Terms, Rs.50,000/- be refunded to the Appellant and balance entire amount along with the accrued interest be given to her.
7. The affidavit is taken on record and marked 'X' for identification. The parties have tendered Consent Terms, which are taken on record and marked 'X-1' for identification.

8. Parties are identified by their respective counsel. The Consent Terms are accepted.
9. Learned Counsel Ms.Swati Mehta submits that balance amount as referred to in the Consent Terms be returned to the wife of the deceased i.e. Smt.Basant Saini. It is mentioned in the Consent Terms that Rajendra Saverna Singh has no other legal heirs except his widow and two minor children mentioned hereinabove.
10. In the First Appeal, the name of the Respondent No.1 Rajendra Saverna Singh is not replaced by his legal heirs and Civil Application for the said purpose is still pending before the Court. In view of the affidavit tendered by Smt.Basant, Civil Application is allowed. The Appellant has no objection for the same. The necessary amendment be carried out forthwith by the Appellant.

11. Since the parties are agreeable to the settlement and have entered into Consent Terms, which are produced on record, the First Appeal is disposed of in accordance with the Consent Terms filed today.

12. Civil Application allowed and disposed of.

(SHRI S. T. KAPSE)

(SHRI S. R. KHANZODE)

(SARANG V. KOTWAL, J.)