

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1326 OF 2021

IN

FIRST APPEAL NO. 1243 OF 2004

Nutan Milind Kulkarni

..... Applicant

IN THE MATTER BETWEEN

Nutan Milind Kulkarni & Ors.

..... Appellants

VERSUS

Bajirao dnyandeo Patil & Anr.

..... Respondents

Mr.Ashutosh M.Kulkarni, a/w. Ms. Akansha Helaskar for the Applicant.

Ms.Hetvi Mota for the Respondent no.2.

CORAM: R. D. DHANUKA, J.

DATE : 18th AUGUST, 2021

P.C:-

Leave to amend is granted to implead the original appellant no.4 as party applicant to this interim application. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. By this interim application, the applicant seeks modification in the operative part of the judgment dated 26th June, 2020 and more

particularly in para 95(e), in view of the Memorandum of Understanding dated 21st September, 2019 arrived at between the appellant nos. 3A, 3B and 4 and the appellant no.1.

3. Mr.Kulkarni, learned counsel for the appellant invited my attention to the said Memorandum of Understanding and would submit that in view of the original appellant nos. 3A, 3B and 4 having agreed not to claim any share awarded to them by the said order dated 26th June, 2020 and more particularly in paragraph 95(e) and have agreed to give up their share to the appellant no.1, the said order be partly modified to this extent.

4. Learned counsel for the insurance company has no objection if the said order is modified as stated. Statement is accepted.

5. The following order is accordingly passed :-

The order recorded in paragraph 95(e) is modified as under :-

(a) The appellant no.1 would be entitled to the additional share of 15% which was jointly awarded to the appellant nos. 3A and 3B and 15% which was

awarded to the appellant no.4 in addition to the original share of 30%.

(b) In view of the Memorandum of Understanding dated 21st September, 2019, the appellant nos. 3A, 3B and appellant no.4 would not be entitled to any share in view of this modification. Learned counsel for the applicants identifies the signatures on the said Memorandum of Understanding.

(c) It is made clear that share at 40% awarded to appellant no.2 is not modified by this order.

6. The judgment dated 26th June, 2020 stands corrected accordingly.

7. Interim application is disposed of in the aforesaid terms. No order as to costs.

[R. D. DHANUKA, J.]