

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**FIRST APPEAL NO. 2313 OF 2014
WITH
CIVIL APPLICATION NO.3688 OF 2022 IN FA/2313/2014**

**THE RELIANCE GENERAL INSURANCE COMPANY, THROUGH ITS
AUTHORIZED SIGNATORY, AURANGABAD
VERSUS
VASANT SHANTARAM KEDAR AND OTHERS**

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Mr. S.G. Chapalgaonkar, Advocate for the Appellant
Mr. H.A. Patankar, Advocate for Respondent Nos.1 to 3
Mr. A.S. Sawant, Advocate for Respondent No.5

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 15th MARCH, 2022

PER COURT:-

1. With the consent of both the sides, heard finally at admission stage.
2. Heard Mr. S.G. Chapalgaonkar, learned counsel for the appellant / insurance company, Mr. H.A. Patankar, learned counsel for respondent nos. 1 to 3 and Mr. A.S. Sawant, learned counsel for respondent no.5.
3. Mr. Chapalgaonkar, learned counsel for the appellant invited my attention to the civil application no. 3688 of 2022 filed in this appeal. He submitted that this appeal has been amicably settled between the parties. The parties have arrived at terms of

the compromise, which are reproduced in para nos. 4(a) to 4(e) of civil application no. 3688 of 2022. He also invited my attention to the affidavit sworn on behalf of the appellant / insurance company as well as affidavits sworn by the respective claimants.

4. Mr. Chapalgaonkar, learned counsel for the appellant / insurance company submitted that in view of the terms of the compromise arrived at between the parties, the impugned judgment and award passed by the Tribunal in M.A.C.P. No. 380 of 2012 needs to be modified and the appeal can be disposed of accordingly.

5. Mr. H.A. Patankar, learned counsel for the original claimants and Mr. Sawant, learned counsel for respondent no.5 have been fair enough to admit this fact of amicable settlement arrived at between the parties and terms of compromise, which are reproduced in para nos. 4(a) to 4(e) of civil application no. 3688 of 2022.

6. Having considered the submissions of Mr. Chapalgaonkar, learned counsel for the appellant / insurance company, Mr. Patankar, learned counsel for the original claimants and Mr. A.S. Sawant, learned counsel for respondent no.5, there is no

difficulty to accept the terms of compromise arrived at between the parties and set aside the impugned judgment and award passed by the Tribunal. It is necessary to modify the award in view of terms of compromise arrived at between the parties, which would meet the ends of justice.

ORDER

(I) The appeal stands allowed and the impugned judgment and award passed in M.A.C.T No. 380 of 2012 is hereby modified in terms of compromise arrived at between the parties in civil application no. 3688 of 2022, more particularly para nos. 4(a) to 4(e), which are as under:

(a) The claimants would be entitled to receive the entire amount deposited by Insurance Company in First Appeal No.2313/2014 along with interest accrued thereon till the date of withdrawal of the amount.

(b) That, in addition to the amount deposited by Insurance Company i.e. Rs.31,01,109/- + Rs.25,000/- + Rs. 50,000/-, the Insurance Company shall further pay lumpsum amount of Rs.21,00,000/- to the claimants within the period of six weeks from the date of recording of this compromise by way of full & final settlement of the claim in MACP No.380/2012. The additional amount shall not carry any interest.

(c) That, the award passed by Hon'ble Tribunal shall be deemed to be modified in aforesaid terms and the claimants waive any amount recoverable under the original award passed by the Hon'ble Tribunal at Dhule in MACP No.380/2012.

(e) That, the aforesaid payment of compensation shall be full and final discharge of liability of the Insurance Company as well as the Respondent No.04 & 05 i.e. driver and owner of insured vehicle.

(II) Award be modified accordingly.

(III) The amount lying with this Registry be transferred to the M.A.C.T., Dhule for payment thereof to the claimants as per the terms of the settlement referred above.

(IV) No order as to the costs.

(V) The first appeal is accordingly disposed of.

(VI) In view of disposal of the first appeal, civil application No.3688 of 2022 and civil application no. 12728 of 2014 also stand disposed of.

[SHRIKANT D. KULKARNI]
JUDGE