

Santosh

**IN THE HIGH COURT OF BOMBAY AT GOA
MISC. CIVIL APPLICATION NO. 26 OF 2022
IN
FIRST APPEAL NO. 57 OF 2012**

SARITA SATISH MALIK AND 4 ORS Applicants

Versus.

MANAGER, BAJAJ ALLIANCE
GENERAL INSURANCE CO. LTD.
AND 5 ORS Respondents.

Mr. A.R.S. Netravalkar, Advocate *for the Applicant.*

Mr. Amey Kakodkar, Advocate *for Respondent No.1.*

CORAM : M. S. SONAK, J.

DATE : 6th May, 2022.

P.C.: -

1. Heard the learned Counsel for the parties.
2. This application has been filed by Respondents No.1,2 and 3 (original Claimants) in First Appeal No.57/2012, which was disposed of on 14/10/2021, for setting aside the Judgment and Order dated 14/10/2021. The Judgment and Order dated 14/10/2021, if perused, would make it clear that the Appeal by the Insurance Company has been dismissed. Not only this, the compensation amount of ₹24,33,400/- awarded to the Claimants

by the Tribunal, has been enhanced by a further amount of ₹50,000/-. Thus, the Judgment and Order dated 14/10/2021, is not at all a Judgment and Order made against the present Applicants or the original Claimants.

3. Mr. Netravalkar, however, submits that the Claimants should have been awarded an additional compensation of ₹ 10-15 lakhs. Mr. Kakodkar points out that in this case, neither was there any cross appeal, nor cross objections filed by the Claimants. He submits that even the statements made in the application for setting aside are not correct.

4. Mr. Netravalkar insists that the statements made by him in this application are correct. He submits that by accepting the statements, the Judgment and Order which is in fact in favour of the Respondents, should be set aside and the matter should be reheard.

5. According to me, since the Judgment and Order has dismissed the Appeal, and at the same time, enhanced the compensation in favour of the present Applicants, there is no case made out for recall of this order simply because the Respondents, based on the advice of their Advocate, are of the opinion that they deserve some additional compensation. In paragraph 15 of the

Application, there is a statement that this impression, which the Applicants carry, is based on “advise of their Advocate”. In any case, paragraph 15 states that the Advocate advised them to file this application because they are entitled to additional compensation.

6. It is not for this Court to go into the allegations made against the rival advocates. Based on such allegations, however, in peculiar facts of this case, there is no warrant for recalling the Judgment and Order dated 14/10/2021.

7. The contention about not bringing the legal heirs of Respondent No.5, on record, have already been considered in paragraph 3 of the Judgment and Order dated 14/10/2021. The matter was proceeded because this Court found that the claim petition was instituted in the year 2009 and the claimants were mother, the widow and 3 minor children. Ultimately, the appeal of the Insurance Company was dismissed and some enhancement was also granted to the Claimants.

8. For all the aforesaid reasons, this application is dismissed. There shall be no order for costs.

M. S. SONAK, J.