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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 3017 OF 2022
WITH
INTERIM APPLICATION NO. 1000 OF 2022**

Nilambari Narendra Bhosale & Anr. .. Petitioners
Vs.
The General Manager-Personnel
Human Resources Department .. Respondent

Mr. Meelan S. Topkar, for the petitioners.

Mr. Lancy D'Souza a/w Deepika Agarwal i/b Mr. V.M. Parkar,
for the respondent no.1.

Mr. Harish R. Pawar, for respondent no.2.

Mr. S.S. Redekar, for applicant in IA/1000/2022.

**CORAM: DIPANKAR DATTA, CJ. &
MADHAV J. JAMDAR, J.**

DATE : OCTOBER 14, 2022

P.C.:

1. Petitioner no.1, Nilambari Narendra Bhosale, is the widow of Narendra Baburao Bhosle (since deceased). Petitioner no.2, Tanvi alias Niyoti Narendra Bhosale, is the daughter born in the wedlock of the petitioner no.1 and Narendra. He was an employee of Air India Ltd. prior to its privatization. Thereafter, while being employed under Air India Engineering Services Limited, he died-in-harness on 22nd September 2020.

2. The marriage between the petitioner no.1 and Narendra was dissolved by decree of divorce dated 16th

January 2007. However, in appeal, the decree was set aside by this Court by a judgment and order dated 1st April 2015. Marital ties of the petitioner no.1 and Narendra were, therefore, restored.

3. The controversy has now arisen because Narendra had nominated his mother, Kamal Baburao Bhosale and the petitioner no.2 as nominees for receiving his death-cum-retiral benefits in case of his death and not the petitioner no.1. While the petitioner no.1 claims that she was the legally wedded wife of Narendra on the date of his death and, thus, entitled to her share in the death-cum-terminal benefits that are now due and payable by Air India Engineering Services Limited, there is one other claimant. She is Divya Narendra Bhosale, the applicant in the application for intervention being IA No.1000 of 2022. She happens to be another daughter of Narendra, born to him and his second wife. This marriage was solemnized sometime in the last decade of the previous century during the subsistence of marriage between the petitioner no.1 and Narendra; hence such marriage, being contrary to the provisions of the Hindu Marriage Act, 1955, is a void marriage. However, the applicant despite the marriage between her parents being void for all intents and purposes, is still entitled to claim a share in the death-cum-terminal benefits payable on the death of Narendra.

4. Since, the petitioner no.1 has been able to secure reversal of the decree passed by the trial Court, she is also entitled to 1/4th share of the death-cum-terminal benefits along with the other three heirs, i.e., the mother and two

daughters of Narendra. Having held so, we dispose of this writ petition with a direction to Air India Engineering Services Ltd., which became the employer of Narendra after privatization of Air India Limited, to calculate the share of each of the four heirs of Narendra and pay to them in equal shares whatever constitutes death-cum-terminal benefits of Narendra in accordance with law. Payment of all sums be effected as early as possible but preferably within four months from receipt of an authenticated copy of this order.

5. It is made clear that if any sum has been released in favour of any heir, the same shall be adjusted with the balance sum now payable in terms of this order in such manner that there is equal distribution among all the heirs. It shall be obligatory for Air India Engineering Services Ltd., while releasing payment, to furnish the calculation to all such heirs.

6. Reply filed by both the respondent nos.1 and 2 be retained with the records.

7. In view of the aforesaid order, the interim application too stands disposed of.

8. No costs.

(MADHAV J. JAMDAR, J.)

(CHIEF JUSTICE)