

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.11050 OF 2023 IN FA/957/2004

Gangubai Dashrath Varade (Deceased)
and others

.... Applicants

Versus

Dayanand Dhondiram Sonar and another

.... Respondents

.....

Mr. Girish S. Rane, Advocate for the Applicants
Mr. R.F. Totla, Advocate for Respondent No.2

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 01st September , 2023

ORDER :

1. By this application, the applicants seek reapportionment of share of compensation payable to each of the applicant/appellant in view of death of appellant No.1 and appellant No.6. Another prayer is also made seeking relief to correct the name of applicant/appellant No.7.

2. Heard the learned advocate for the applicants and learned advocate for respondent No.2. Perused the memo application and annexures thereto.

3. Learned advocate for the applicants submits that in view of specific apportionment given in operative part of the judgment and award dated 28/06/2023 in First Appeal No.957 of 2004, it is necessary to modify the apportionment in view of

the death of some of the dependents of deceased Dashrath. In absence of apportionment, claimants/applicants-appellants are not be able to receive amount of compensation. He further submits that, name of applicant/appellant No.7 is required to be corrected in the Claim Petition, First Appeal and the order of this Court dated 28/06/2023, otherwise the old lady will be deprived of amount of compensation for which she is held to be entitled.

4. Learned advocate for respondent No.2 vehemently opposed the application.

5. Admittedly, the legal representatives of appellant No.1 are already on record as appellant Nos.2 to 5. Since her legal heirs are already on record, the appeal would not abate.

6. From the death certificate placed on record, it is clear that appellant No.6 expired on 06/05/2017. He was arrayed in the claim petition as dependent of deceased Dashrath. In view of his death, his share will have to be given to appellant/applicant No.7.

7. The applicants have made a statement in application that appropriate proceeding for taking entry into the register of death is already initiated and the same is pending before the competent Court.

8. Due to inadvertence, name of claimant No.7/applicant-appellant No.7 is mentioned as "Chandakalabai W/o Santramji Varade" in cause title of the Claim Petition (M.A.C.P.) No. 288 of 2001. The same name is carried in First Appeal No.957 of 2004. The applicants have averred that correct name of claimant No.7/applicant-appellant No.7 is "Chandrabhaga Santram Varade", which needs to be corrected in the Claim Petition, First Appeal as well as in the order of this Court dated 28/06/2023. In support of the said contention, copy of Aadhaar Card of Chandrabhagabai is placed on record.

9. Considering the aforestated facts, the application is allowed in terms of prayer clauses (A) and (B).

10. Compensation, which is awarded to the appellant/applicant No.1 shall be equally distributed to the surviving appellant/applicant Nos.2 to 5.

11. Compensation of deceased appellant/applicant No.6 be paid to appellant/applicant No.7.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane