

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

**MISC. CIVIL APPLICATION NO. 371 OF 2022
IN
FIRST APPEAL NO.10 OF 2016**

MEHEROON MALIK SHAIKH AND
ANR.

... Applicants

Versus

THE NEW INDIA ASSURANCE
COMPANY LTD. AND 4 ORS.

... Respondents

Mr. Prashant Vengurlekar, Advocate for the Applicants.

CORAM: M. S. SONAK, J.

DATED : 19th JANUARY 2023

P.C.:

1. Leave to amend the prayer clause. Amendment to be carried out immediately.
2. This Civil Application is filed by Meheroon and Hasina, the original Respondent Nos. 5 and 6 in First Appeal No. 10 of 2016. They referred to para 10 of the judgment and order dated 7th April 2022 disposing of the First Appeal No.10 of 2016, which reads as under:-

"10. The appeal is disposed of by modifying the impugned award and determining the compensation at ₹34,55,600/- together with interest at the rate of 7% per annum from the date of the petition. Out of this determined amount, the claimants Meheroon and Hasina will be entitled to only ₹40,000/- each. After deducting this amount, 50% of the compensation will have to be paid to Ibrahim's widow Raziya. The balance of 50% will have to be shared by Ibrahim's mother Fatima and daughter Rihana. This is consistent with what is directed by the Tribunal in the impugned award."

3. They now point out that their mother, Fatima expired on 15.12.2020. However, the Advocate for Respondent Nos.2 and 3 may not be aware of this position; therefore, this fact was not brought to the notice of this Court when it passed the judgment and order dated 7th April 2022.

4. Hasina states that Raziya, the widow of the late Ibrahim Shaikh, due to whose unfortunate demise the claim petition had to be filed, has remarried. She, therefore, submits that no portion of compensation payable to their late mother, Fatima, should be paid to Raziya. However, Hasina and Meheroon, who are present in the Court, say that they will have no objection if the portion of this compensation is paid to Rihana, the minor daughter of the late Ibrahim Shaikh.

5. Regards Amina Shaikh, Hasina and Meheroon state that she is their sister. They point out that Amina never depended on her mother

or Ibrahim. Furthermore, they point out that she is married and resides abroad.

6. Hasina and Meheroon state that Amina will have no objection if the mother's share is given to them and Rihana. They further state that if Amina raises any claim in the future, then they, i.e. Hasina and Meheroon, would satisfy such claim out of the compensation that could now be awarded to them.

7. Considering the above circumstances and Fatima's death certificate produced on record, some orders will have to be made regarding Fatima's share.

8. In terms of para 10 referred to above, out of the total compensation of ₹34,55,600/-, Hasina and Meheroon were held entitled to only ₹40,000/- each. From the balance amount, 50% has to be paid to Raziya, i.e. Ibrahim's widow, and the balance 50% has to be shared by Ibrahim's mother, Fatima, and his daughter Rihana. Thus, Fatima's share was ₹8,43,900/- with proportionate interest on the said amount.

9. Now that Fatima has expired, this amount of ₹8,43,900/- (with proportionate interest) is now ordered to be shared equally by Rihana (Ibrahim's minor daughter) and Ibrahim's two sisters, Hasina and Meheroon.

10. Since no amounts have been withdrawn and it is now pointed out that Raziya has remarried, it is only appropriate that Rihana's

original share, which is now awarded by this order, must be invested by the Registry in a fixed deposit in a nationalized bank. The amount can be released to Rihana once she attains majority or if such an amount is necessary for her education needs. Raziya granted liberty to take out an appropriate application in this regard.

11. No amount is apportioned to Amina, considering the statements made by Hasina and Meheroon. These statements are accepted as undertakings given to this Court.

12. Registry to facilitate the withdrawal of the above amount. The parties entitled to the withdrawal must furnish their identification and bank details. Registry to ensure that the amounts are transferred directly into their bank accounts.

13. The Misc. Civil Application No.371 of 2022 is disposed of in the above terms.

14. The Registry could seek the help of the Member Secretary, GLSA regards compensation payable to the parties and the investment of Rihana's share.

M. S. SONAK, J.

TARI AMRUT NAGESH Digitally signed by TARI AMRUT NAGESH
Date: 2023.01.21 12:48:17 +05'30'