

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BEFORE THE NATIONAL LOK ADALAT
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1238 OF 2023
WITH
INTERIM APPLICATION NO.17824 OF 2023
IN
FIRST APPEAL NO.1238 OF 2023

The New India Assurance Co. Ltd. Through
The Divisional Manager ...Appellant
Versus
Ajitkumar Pandurang Tathawade and Ors ...Respondents

Mr. Deepika Prabhula i/b. Res Juris, *for the Appellant.*
Mr. Ajitkumar P. Tathawade, *Respondent No.1 present in Court.*

CORAM : RAJESH S. PATIL, J.
(HEAD OF THE PANEL)

V.V. KATHARE
REGISTRAR (VIGILANCE-II)
MEMBER

D.V. KUTE,
DEPUTY REGISTRAR
MEMBER

DATED : 9 DECEMBER 2023

P.C.:

1. Appellant as well as Respondents have entered into the consent terms dated 9 December 2023. The consent terms signed by these parties is taken on record and is marked "X" for

identification. Mrs. Prabhula, learned counsel for Appellant and Mr. Tathwade, Respondent No.1 state that the parties have signed in their presence and they identify their signatures. Learned counsel for Appellant state that they have explained to the signatories and the signatories have signed the consent terms after understanding the contents. For ease of references, the Consent Terms are scanned and reproduced herein below :-

Filed in Court on 9/12/2022
and marked as "X" 1

X' RPL/L
9/14/23

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. (L) 29428 OF 2023

IN

M.A.C.P NO. 63 OF 2021

DISTRICT: SOLAPUR

The Divisional Manager,)
The New India Assurance Co. Ltd.,)
Hutatma Smruti Mandir Complex,)
Park Chowk, District Solapur,)... Appellant
(Opponent no.2)

VERSUS

1. Ajitkumar Pandurang Tathawade,)
Age: 30years, Occ. : Education)
2. Gopika Pandurang Tathawade,)
Age: 22 years, Occ. : Handicapped)
Both R/o. Gopika Sadan, Datta Nagar,)
Pernephata, Perne, Pune.)
3. Devidas Janu Sudrak)
Age: 50 years, Occ. : Business)
R/o. Sai Shrushti Tupe Park,)
Sy No. 58/59, Manjari (Bk), Perne)... Respondents

RPL/L

RPL/L

RPL/L

RPL/L

(Present Respondent No. 1 and 2 being original applicants & Respondent No. 3 being opponent no.1)

CONSENT TERMS

**TO,
THE HON'BLE THE CHIEF JUSTICE AND
THE HON'BLE PUISNE JUDGES OF THE
HON'BLE HIGH COURT AT BOMBAY**

MOST RESPECTFULLY SHEWETH:

1. The aforesaid Appeal has been preferred assailing the award dated 08.08.2023, passed by Ld. Motor Accident Claims Tribunal, Solapur in Motor Accident Claim Petition No. 63 of 2021, whereby the Ld. Tribunal has awarded an amount of Rs. 62,26,000/- along with interest @ 9% p.a. from the date of application till realization.
2. The Respondent No.1 and 2 (original claimants) are the children of deceased Pandurang Tathawade. The Respondent no. 2 is having multiple disability as per the disability certificate dated 26.05.2023 issued by Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India . The Respondent no. 1 being the brother of



Respondent no. 2 has been appointed as the legal guardian of Respondent no. 1 vide certificate of appointment of legal guardian dated 12.04.2021. Thus, Respondent no. 2 is unable to put her signatures on the consent terms. That Respondent no. 1 has put his signatures on behalf of Respondent no. 2.

Copy of disability certificate is hereto annexed as Exhibit – A.

Copy of guardian certificate is hereto annexed as Exhibit – B.

3. The Respondent no. 3 is the owner/insured of the vehicle. The Respondent No. 3 is a formal party to the proceedings and hence his signature is not obtained on the consent terms. The present consent terms have been entered into between Appellant and the Respondent no.1 and 2, terms of which are mentioned below.

**THE PARTIES TO THE CONSENT TERMS HEREBY
AGREE AS FOLLOWS:**

1. The Appellant and Respondent no. 1 & 2 have agreed to settle the claim for a sum of Rs. 47,89,600/- (Rupees Forty Seven Lakhs Eighty Nine Thousand and Six Hundred Only) alongwith 9% interest from the date of filing of application (i.e. 03.02.2021)

The block contains three handwritten signatures in black ink. The first signature on the left is 'Amit', the middle one is 'Devi', and the third one on the right is 'Anurag'.

till the date of realization, as full and final settlement of the claim.

2. The Appellant shall deposit the aforesaid amount before the Ld. MACT, Solapur within a period of six (6) weeks from the date of recording of consent terms i.e.09.12.2023. That upon such deposit, the said amount may be released in favour of Respondents as per the apportionment mentioned in the judgment award dated 08.08.2023.
3. That the Respondent No. 1 and 2 shall not claim any monies or file any proceedings/suits/any other litigation against the Appellant in any Court/Tribunal/Forums etc. for recovery of monies in respect of compensation which is the subject matter of MACP No. 63 of 2021 and Execution Application, if any.
4. The aforesaid First Appeal may be disposed off in terms of consent terms along with all the Interim Applications pending before this Hon'ble Court.
5. That the statutory deposit of Rs. 25,000/- along with accrued interest, if any, may be transferred to the Ld. MACT, Solapur and may thereafter be released in favour of Respondent no. 1 and 2.

Amol
Deshpande
Bhabha
Amol

6. That, suitable order in respect of refund of court fees may be passed in favour of the Appellant.

This consent terms is filed on 9th day of December, 2023.

Prakhala

RES JURIS
Advocates for Appellant



New India Assurance
Co. Ltd.
Appellant

Anjali Mehrotra
Lata Iyer

Atul
Respondent No. 1

Atul
Guardian of Respondent No. 2

B.B. Deshmukh
Advocate for Respondent nos. 1 & 2
Adv. B.B. Deshmukh

2 Learned counsel for Appellant and Respondent No.1 state that all the signatories are also present in Court and identify their respective clients.

3. Learned counsel for Insurance Company submits that Respondent No.1 present in the Court and as per the consent terms Insurance Company will be depositing a sum of Rs.7,20,000/- along with 9% interest from the date of filing of application till the date of realization.

4. Registry of MACT Solapur should ensure that the amount be deposited in the bank account of Respondent Nos.1 and 2 as per the consent terms.

5. Mr. D. V. Deshmukh, appearing on behalf of Respondent Nos.1 and 2 and submits that he has filed Vakalatnama signed by Respondent Nos. 1 and 2. He further submits that he will be filing his Vakalatnama before the Registry.

3 Appeal stands disposed in terms of the consent terms dated 9 December 2023. All statements are accepted as an

undertaking to this Court. All undertakings are also accepted.

4 All parties to act on the authenticated copy of this order.

5 Civil application/interim application, if any, are also disposed off.

(D. V. KUTE)
Deputy Registrar
& Member

(V.V. KATHARE)
Registrar (Vigilance-II)
& Member

(RAJESH S. PATIL, J.)
Head of the Panel