

Chaitali Ekke

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

FIRST APPEAL NO. 259 OF 2016

Bajaj Allianz General Insurance Co. Ltd. ...Appellant

Versus

Shri. Prataparo Anandrao Shinde and Ors. ...Respondents

....

Ms. Yogita Deshmukh Chitnis, for Appellant.

Mr. Kayval P. Shah, for Respondent No.1 & 2.

....

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

**S.R. AGARWAL,
REGISTRAR (JUDICIAL-II) MEMBER**

**R.V. WANWADI,
DEPUTY REGISTRAR (INSPECTION)
MEMBER**

DATED : 30th APRIL 2023

P.C.:

1 Appellants as well as Respondent Nos. 1 and 2 have entered into consent terms dated 30.04.2023. The consent terms signed by the parties is taken on record and marked “X”, for identification. Ms. Yogita Deshmukh and Mr. K.P. Shah state that the parties have signed the consent terms in their presence, and they identify their signatures. Both state that they have explained to the signatories and

the signatories have signed the consent terms after understanding the contents.

2 Both counsel state that all the signatories are also present in Court and identify their respective clients.

3 The Consent Terms are scanned and reproduced hereinabove :

Coram: - Rajesh Padil, J (NLA)
30/4/23

X
RPAK
30/4/23

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 259 OF 2016
(UNDER SECTION 173 of MOTOR VEHICLES ACT)
DISTRICT: SATARA

Bajaj Allianz General Insurance Co. Ltd.
Vardhaman, 4th Floor, 7, Loves Chowk, Shankar
Sheth Road, Pune Appellant

VS

1) Prataprao Anandrao Shinde
2) Shamala Prataprao Shinde
Both residing at Jamb, Tal: Wai,
District- Satara Claimants/ Respondents

3) Mrs. Sncha P. Ambekar
R/o Solance Park, A-5, Flat No. - 1,
B.T. Kawade Road, Ghorpadi, Pune

Claim Rs. 28,02,000/- for the purpose of jurisdiction
and Rs. 36,30,900/- for the purposes of court fees.

1. The present Appeal i.e. First Appeal No. 259 of 2016 arises out of the impugned order dated 10th July 2013 passed by the Ld. Member, Motor Accident Claim Tribunal, Satara in MACP No. 14/2008

2. The Appellant/Applicant is the original opponent No. 2-Insurance Company, and the Respondent Nos. 1 and 2 are the Original Claimants and the Respondent No. 3 is the Original Respondent No. 1.

Scanned with CamScanner

3. The Claimants had filed MACP No. 14/2018 thereby seeking compensation to the tune of Rs. 28,02,000/- on account of accidental death of one Sachin Prataprao Shinde. After hearing the parties, the Ld. Member, Motor Accident Claim Tribunal, Satara was pleased to allow the claim of the Claimants thereby directing the Appellant-Insurance Company to pay an amount of Rs. 36,30,900/- along with the interest at the rate of 9% P.A. from the date of filing of Claim Petition till its realization.

4. Being aggrieved and dissatisfied by the aforesaid impugned Judgment and Award the Appellant-Insurance Company had filed the present First Appeal before this Hon'ble Court. The aforesaid Appeal is Admitted by this Hon'ble Court. The Appellant has already deposited an amount of Rs. 54,18,542/- (incl NFL and statutory). The Claimants had already withdrawn the 50% of the above mentioned deposited amount thereby procuring appropriate order from this Hon'ble High Court and the rest of the amount was directed to be deposited in the nationalised bank.

5. It has been agreed by the Parties that out of the remaining amount, the Claimants are ready to forego Rs. 5,00,000/- (Rupees Five Lacs only) (lumpsum) in favour of the Appellant - Insurance Company and the remaining amount along with the accrued interest to go to the share of the Original Claimants.

6. Considering the long drawn litigation, the Appellant/Insurance Company and the Original Claimants had decided to amicably settle the entire disputes with respect to the compensation payable to the Claimants on the following terms and all the proceedings be disposed of finally in terms of these consent terms :-

- a) The Appellant/Insurance Company has agreed to allow the Claimants to withdraw the remaining amount as deposited with the Nationalised Bank excluding Rs. 5,00,000/- (Rupees Five Lacs only) from it. The Claimants have agreed to accept the aforesaid amount in full and final settlement towards the claim made.
- b) In view of the settlement between the parties, the original Claimants/Respondent Nos. 1 and 2 herein will be entitled to directly withdraw the entire remaining amount as deposited with the Nationalised Bank along with the accrued interest thereon after foregoing Rs. 5,00,000/- (Rupees Five Lacs only) in favour of the Appellant Insurance Company and they will not object to such withdrawal/refund of Rs. 5,00,000/- (Rupees Five Lacs only) by the Appellant Insurance Company.
- c) Both the parties agree that the fixed deposit of the aforesaid amount is likely to get matured by 27 June 2023, therefore, both the parties will file their respective claims / application for refund, before the Learned Tribunal after 27 June 2023, and secure their desired amounts.
- d) The Respondent Nos. 1 and 2- Original Claimants have verified the deposit of the amount by the Appellant and do not dispute the same in any manner.
- e) The Appellant-Insurance Company undertakes that that as and when the aforesaid Appeal is disposed of by this Hon'ble Court, they will immediately give consent before the I.d. Member, MACT, Satara for withdrawal of the aforesaid amount in favour of the Claimant/Respondent Nos. 1 and 2.

सौ. रामेंद्र भापरवई

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My Sign

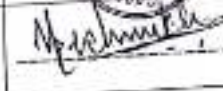
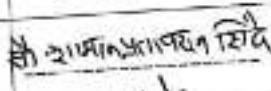
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- f) The Respondent Nos. 1 and 2 the Original Claimants hereby agree and undertake that upon receipt of the aforesaid amounts in entirety, they shall not make any claim whatsoever nature against the Appellant/Insurance Company including the Claim which is the subject matter of the present dispute and also get disposed-off the execution proceedings if any as fully satisfied.
- g) The Respondent Nos. 1 and 2 undertake that as and when the aforesaid Appeal is disposed of by this Hon'ble Court, they will immediately give consent before the Ld. MACT, Satara for withdrawal of the amount to the tune of Rs. 5,00,000/- (Rupees Five Lacs only) (lumpsum) as agreed in the aforesaid paragraphs of these terms, in favour of the Appellant-Insurance Company.
- h) The assurances and undertakings as mentioned above from the respective parties shall be undertakings to this Hon'ble Court.
- i) The First Appeal and pending Civil Applications are finally to be disposed of in above terms with no order to costs.
- j) The Ld.MACT, Satara will pass an appropriate order on the basis of the same for refund of Rs 5,00,000/- to Insurance Company.
- k) After withdrawal of the First Appeal usual Orders of refund of Court fees and return of statutory amount may be passed in favour of the Appellant Insurance Company.
- l) All the terms and conditions mentioned in the present consent term have been explained to the Respondent Nos. 1 and 2 in their vernacular language by their advocate and the Respondent No. 1 and 2 have decided to be abide by them without any coercion, force and undue influence.

श्री. शिवाजी नायर (डि.)

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Place: Mumbai
Date: 30/04/2023

Sr. No.	Signatory	Signature
1.	<u>Kartikay Singh Bais</u> Authorised signatory of Bajaj Alliance General Insurance Company (Appellant)	
2.	Adv. Yogita Deshmukh Chitnis (Advocate for the Appellant)	
3.	Prataprao Anandrao Shinde (Respondent No. 1)	
4.	Shamala Prataprao Shinde (The Respondent No. 2)	
7.	Mr. Kayval Shah Advocate for the Respondents	



True copy
B

सौ शमला प्रताप शिंदे

Signature

भारत सरकार
Government of India

प्रताप आनंदराव शिंदे
Pratap Anandrao Shinde
जन्म तारीख/DOB: 11/10/1942
प्राथम्य MALE

7071 7674 1017

माझी आधार, माझी ओळख

भारतीय विशिष्ट ओळख प्राधिकरण
Unique Identification Authority of India

Address:
krushna mandira shojari, At. po.
jamb Taluka Wai, Jamb, Solara,
Maharashtra - 415530

पत्ता:
कृष्ण मंदिर शेजारी, पु. पो. जंब तालुका वई,
जंब, सोलरा,
महाराष्ट्र - 415530

7071 7674 1017

True copy
SSM
[Signature]

4 Appeal stands disposed in terms of consent terms dated 30.04.2023. All statements are accepted as undertaking to Court. All undertakings are also accepted.

5 Advocate Ms. Deshmukh to file vakalatnama on behalf of Appellant within a period of one week from today.

6 Statutory claim of Rs. 25,000/- is also return to Appellant Insurance Company.

7 Certified copy of this order and consent terms be expedited.

8 Refund of court fees as per rule.

9 All parties to act on authenticated copy of this order.

(R.V. WANWADI)
Dy. Registrar (Inspection)
& Member

(S.R. AGARWAL)
Registrar (Judicial-II)
& Member

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