



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 10846 OF 2024
IN FIRST APPEAL NO. 3560 OF 2008
WITH
CIVIL APPLICATION NO. 12153 OF 2024
IN FIRST APPEAL NO. 3560 OF 2008

1. Smt. Rajashree Rajesh Patil
Age : 55 years, Occu. Household,
R/o. Siddhi Vinayak Colony,
Dhule Road, Amalner,
Taluka Amalner, Dist. Jalgaon.
2. Madhavi D/o Rajesh Patil
Age : 23 years, Occu. Education
3. Varun S/o Rajesh Patil
Age : 21 years, Occu. Education

Both R/o. Siddhi Vinayak Colony,
Dhule Road, Amalner,
Taluka Amalner, Dist. Jalgaon.
4. Smt. Pushpabai Bhaidas Patil
Age : 80 years, Occu. Household,
R/o. Siddhi Vinayak Colony,
Dhule Road, Amalner,
Taluka Amalner, Dist. Jalgaon.

... Applicants

Versus

1. Bhimji Vanaji Gawali
Age : Major, Occu. Truck Driver & Owner
R/o. Moghan,
Taluka and District Dhule.
2. The Oriental Insurance Company Ltd.
Through the Manager,
Oriental Insurance Company Ltd.
Opp. School no.9, Lane No.5,
Dhule, District Dhule.

3. Bhaidas Santosh Patil
Deceased. ... Deceased

.....

Mr. Subodh P. Shah, Advocate for the Applicants.

Mr. Swapnil V. Lohiya h/f Mr. R. F. Totala, Advocate for Respondent No.2.

.....

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 10 DECEMBER 2024

PER COURT :-

1. Civil Application No. 10846 of 2024 has been filed practically for redistribution of share in the compensation to the other original appellants in view of the fact that, before the appeal could be decided on 10.01.2024, appellant no.4 had expired and the appellants failed to bring the said fact to the notice of this Court as well as to bring the legal representatives of appellant no.4 on record.

2. Heard learned Advocate Mr. Shah for the original appellants-present applicants and learned Advocate Mr. Lohiya h/f learned Advocate Mr. Totala for respondent no.2 insurance company.

3. Applicants are now coming with a case that original appellant no.4 expired on 17.04.2021. However, they failed to bring the legal

representatives on record. Original appellant no.5 is the widow and appellant nos. 1 to 3 are the legal representatives of deceased son of deceased appellant no.4.

4. Deceased appellant no.4 has one more son and daughter, namely, Shri Anil Bhaidas Patil and Smt. Vrunda Sunil Pawar. They have given affidavits stating that they have no objection if the share of appellant no.4 is distributed amongst other appellants.

5. Taking into consideration the fact that original appellant no.4 had expired much prior to the decision of the First Appeal, however appellants failed to bring the legal representatives on record before the decision of the First Appeal, now, the share that has been given to appellant no.4 is certainly required to be distributed amongst his legal representatives and the modification in the judgment and award is required to be passed. The original appellant no.1 is the daughter-in-law of deceased appellant no.4 and when the other class 1 heirs of appellant no.4 are alive, she will not get any share from the share of appellant no.4 and therefore, the amount which would have been given to the share of appellant no.4, i.e. original claimant no.4, in view of the judgment of award passed by this Court in the First Appeal as well as in the claim petition, i.e. after its modification and

after deduction of the amount which was already withdrawn to the extent of the share of original appellant no.4, be distributed equally between original appellant no.5 Sau. Pushpabai w/o Bhaidas Patil, appellant no.2 Madhavi d/o Rajesh Patil and appellant no.3 Varun Rajesh Patil.

6. The judgment and award be modified to this extent. The application accordingly stands disposed off.

7. Civil Application No. 12153 of 2024 also stands disposed off.

[ABHAY S. WAGHWASE, J.]

[SMT. VIBHA KANKANWADI, J.]

vre