



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 10 OF 2026
IN FA/3757/2016

Rukhmanbai Sitaram More And Anr.

VERSUS

Nasar Khan Munshi Khan And Ors.

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Mr. S. S. Rathi, Advocate for Applicant

Mr. M. R. Deshmukh, Advocate for Respondent No. 3

CORAM : ABHAY S. WAGHWASE, J

DATE : JANUARY 09, 2026

PC :

1. This Review Application arises out of the judgment and order passed by this Court dated 12.12.2025 in First Appeal No. 3757/2016.

2. It is pointed out that, this Court, while deciding the above Appeal, inadvertently did not record findings on the point of pay and recover and, therefore, review is sought. Learned Counsel for the Appellant/Review Applicant has, in written notes of arguments also, stated about the same.

3. Learned Counsel for Respondent No. 3 - Insurance Company though opposes the Review Application, however, does not dispute with the settled legal position.

4. Learned Tribunal, though has exonerated the Respondent No. 3 - Insurance Company from the liability, however, has not passed the order of pay and recover in view of law laid down by Hon'ble Supreme Court in the case of K. Nagendra v. New India Insurance Co. Ltd., MANU/SC/1462/2025.

5. In view of the above settled legal position, Review Application is allowed. As regards entitlement of compensation, admittedly, breach of policy was proved and, therefore, it was expected of learned Tribunal to pass pay and recover order, claimants being third party. Though Respondent No. 3 – Insurance Company is exonerated from liability, it shall first pay compensation to original claimants and then is entitled to recover the same from original respondent nos. 1 and 2, as per law. Hence, the following order :

ORDER

I. Clause (iii) of the operative part of the judgment and order dated 12.12.2025 is hereby modified to the following effect;

“(iii) Respondent No.3 to pay enhanced compensation of Rs.9,41,600/- to claimants within 12 weeks from today along with interest @ 9% per annum from the date of registration of claim petition till its realization. Respondent No.3 is entitled to recover the same from original respondent nos. 1 and 2, as per law”

II. The Review Application is accordingly disposed off.

(ABHAY S. WAGHWASE, J.)

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