

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Civil Application No.6582 of 2015

In

First Appeal No.416 of 2015

Taramati w/o Manohar Shivtare
And Others.

.. Applicants.

Versus

The National Insurance Co. Ltd.
And Others.

.. Respondents.

Shri. Swapnil S. Rathi, Advocate, for applicants.
Shri. Atul B. Gatne, Advocate, for respondent No.1.

CORAM: T.V. NALAWADE, J.

DATE : 18th JUNE 2015

ORDER:

1) Notice to respondent No.1 - Insurance Company. Learned counsel waives notice.

2) The application is filed by original claimants for permission to withdraw the amount of compensation deposited by the appellant, Insurance Company. Learned counsel for the Insurance Company has produced copy of order made by the Hon'ble Apex Court in SLP (CC) No.8058/2014 dated 2-7-2014 (National Insurance Co. Ltd. v. Pushpa) and submitted that the issue is referred to

larger Bench by the Apex Court and so the increase of the income either 30% or 50% in a case where there was no fixed salary cannot be considered at present. This submission cannot be accepted at this stage as there is no case decided on the point by the Apex Court reported as **AIR 2012 SC 2185 (Santosh Devi vs National Insurance Co. Ltd.)**.

3) The appeal is filed only on the point of quantum. In view of the reasons given by the applicants this Court holds that amount of Rs.8,00,000/- (rupees eight lakh) with interest thereon deposited needs to be allowed to be withdrawn. So, the application is allowed. The applicants are permitted to withdraw Rs.8,00,000/- (rupees eight lakh) with interest thereon. The disbursement shall be made as per the order made by the Tribunal. Undertaking needs to be given by the claimants to deposit Rs.2,00,000/- (rupees two lakh) with 9% interest if the appeal succeeds. The application is disposed of.

Sd/-
(T.V. NALAWADE, J.)

rs1