

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

933 CIVIL APPLICATION NO. 15777 OF 2015
IN FAST/27700/2015

MAHANANDA NARAYAN WAGH AND OTHERS

VERSUS

THE NEW INDIA ASSURANCE CO. LTD. AND OTHERS

...

Advocate for Applicants : Mr. Mayure Pramod C

Advocate for Respondent No.1 : Mr. A. B. Kadethankar

CORAM : A. M. BADAR, J.**DATE : 09th December, 2015****PER COURT :**

1. Heard learned counsel appearing for applicants/ original claimants as well as learned counsel appearing for non applicant No.1/original appellant. Perused the impugned judgment and award.

2. It is seen that deceased was a pillion rider of Scooter which came to be dashed by a Swift make car. The learned Tribunal held that owner as well as insurer of the Swift Car should jointly as well as severally pay the amount due under the Award. Insurance Company is given an opportunity to recover that amount from the owner as well as driver of the Car by filing execution proceeding.

3. The impugned award shows that disbursement of amount shall be after notice to respondents/owner and

driver for furnishing security for the entire amount. Shri Mayure, learned counsel appearing for the applicants submits that disbursement may be done only on the personal undertaking of claimants. However, the award, so far as it relates to issuance of notice for furnishing security has attained finality as appellant Insurance Company is not challenging the same. At the same time, as the claim is in respect of death of victim and applicants /claimants being dependent legal representatives, the amount under the award needs to be disbursed to them. Hence, following order:

- i. The amount under the award deposited with this Court by non-applicants Insurance Company be transmitted to the learned Motor Accident claim Tribunal, Beed.
- ii. Learned Member, Motor Accident Claim Tribunal Beed shall disburse the amount under the award to the claimants after complying the conditions of disbursement reflected in the Award, including notice for furnishing security by owner and driver as well as attachment of the Car. In addition, claimants shall tender their personal undertaking before the learned Member, Motor

Accident Claim Tribunal that in the event of allowing the appeal and in the event they being directed to refund the amount, they will refund the same within one month. On fulfilling these conditions, the Tribunal shall disburse the amount under the award by adhering to the conditions regarding apportionment as well as disbursement as per the Award.

iii. Civil application stands disposed of

(**A. M. BADAR, J.**)

JPC