

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO.1139 OF 2015
WITH
CIVIL APPLICATION NO.3469 OF 2015
AND
CIVIL APPLICATION NO.3986 OF 2015**

United India Insurance Company Limited ... Appellant
vs.
Liladevi Vinodprasad Mandal and Others ... Respondents

Mr. Rahul Mehta i/b. KMC Legal Venture, for the Appellant.
Mr. D.S. Joshi, for Respondent Nos. 1 to 4 and for the Applicant
in CAF. No. 3986 of 2015.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **16th DECEMBER, 2015**

P.C.:

. Admit.

In Civil Application No. 3469 of 2015 -

2. The learned counsel for the Appellant/insurance company submits that in view of the order passed on 13th October, 2015 the insurance company has deposited the entire amount of compensation along with the interest accrued thereon with the Tribunal. Hence, the stay granted be continued pending Appeal. The learned counsel for Respondent Nos. 1 to 4 i.e. original claimant is present.

3. The Civil Application is allowed. The stay granted earlier on 13th October, 2015 to continue pending the Appeal. Accordingly the Civil Application No. 3469 of 20015 stands disposed of.

In Civil Application No. 3986 of 2015 -

4. The application is made for withdrawal of the amount by the original claimants who are widow and children of the deceased. The amount of compensation granted by the Tribunal is Rs. 8,12,500/- and the insurance company has deposited the entire amount of compensation along with interest accrued thereon total Rs. 12,66,715/-.

5. The learned counsel for the Appellant/insurance company while opposing the application for withdrawal submits that the Tribunal has fixed the income of the deceased notionally. In between the application was dismissed and that period of dismissal and restoration was not excluded for the purpose of calculation of the interest. The deceased was riding a bicycle and he was hit by a tempo from the backside.

6. In view of this, the Civil Application is allowed. The Applicants/original claimants are allowed to withdraw 50% of the amount of the compensation and the interest accrued thereon as on today (i.e. Rs. 4,06,250/- plus interest).

7. This amount is to be divided into four shares. The mother being the guardian, may receive the share of the minor Applicant No. 4 Miss Sujat Mandal.

(MRS.MRIDULA BHATKAR, J.)