

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,**  
**NAGPUR BENCH, NAGPUR**

**CIVIL APPLICATION (CAF) NO.924 OF 2015**

**IN**

**FIRST APPEAL NO.264 OF 2013**

**New India Assurance Co. Ltd., thr its Divisional Manager, Amravati**

**..vs..**

**Smt. Vaijayanti wd/o Damodhar Khaire and ors**

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Office Notes, Office Memoranda of Coram,  
appearances, Court orders or directions  
and Registrar's orders

Court's or Judge's Order

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**Shri B.D. Vora, counsel for applicant Nos.1 to 3 / Resps.**  
**Shri Gautam Chatterjee, counsel for the non-**  
**applicant/appellant.**

**CORAM : A. S. CHANDURKAR, J.**  
**DATED : APRIL 20, 2015**

**Heard.**

By this application, applicants / respondent Nos.1 to 3 seek permission to withdraw 50% of the amount of compensation deposited by the non-applicant / appellant. In the application it is stated that applicants / respondent Nos.2 and 3 are taking their education and they require the amount for their monthly expenses. Reference is also made to the fact that they intend to get married.

The application is opposed by the learned counsel for the non-applicant / appellant on the ground that, by order dated 5.9.2014, the applicants / respondents were permitted to withdraw 25% of the amount of compensation. It is further submitted that finding, regarding negligence of

the truck driver, is under challenge in the appeal and that the deceased was also responsible for the occurrence of the accident.

Considering the nature of evidence available on record and the reasons mentioned in the application, applicants / respondent Nos.2 and 3 are permitted to withdraw 25% of the amount of compensation deposited by the non-applicant / appellant subject to furnishing an undertaking that in case the appeal is allowed, the aforesaid amount shall be re-paid with interest accrued thereupon at such a rate the Court may then direct.

The civil application is allowed and disposed of accordingly.

**JUDGE**

**!! BRW !!**