

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CAO NO. 1574/2014 IN FIRST APPEAL NO. 829 OF 2015

(The New India Assurance Co. Ltd. vs. Smt. Jayashree wd/o Shriram Dhawad & Ors.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
V.M. DESHPANDE, JJ.
NOVEMBER 30, 2015.**

Shri Sahare, learned counsel for the appellant, Mrs. Khade, learned counsel for respondent Nos. 1 to 4 (applicants) and Shri Kedar, learned counsel for respondent No. 5.

The heirs of a victim of an accident seek permission to withdraw the amount of Rs.10,81,537/- (Ten lakh eighty one thousand five hundred and thirty seven only) deposited by the appellant – Insurance Company, with the Registry of this Court.

Shri Sahare, learned counsel gives no objection, however, he points out that the liability by the appellant – Insurance Company may be required to be reworked after finding out whether there was any contributory negligence or not. According to him, the Driver of vehicle insured with the appellant cannot be blamed for the accident.

We need not go into these facets at this stage. The possibility of contributory negligence or otherwise is an issue to be gone into at the final hearing of the appeal. Moreover, the claimants may not be interested in its adjudication and equities may be required to be adjusted between the appellant –

Insurance company and other vehicle involved in the accident.

In this situation, we allow the present civil application. The amount mentioned above, with interest accrued thereon, is allowed to be withdrawn by the respondents in proportion as arrived at by the M.A.C.T. in the judgment dated 30.08.2013.

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Heard.

Admit.

Mrs. Khade, learned counsel waives notice for respondent Nos. 1 to 4, Shri Kedar, learned counsel waives notice for respondent No. 5 and Shri Parchure, learned counsel waives notice for respondent No. 6.

List the matter with First Appeal Nos. 330 of 2014 and 332 of 2014.

JUDGE

JUDGE

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