

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5813 OF 2016
IN FA/505/2014

SUBHASH ASHRUBA HIVALE AND ANR
VERSUS
NEW INDIA ASSURANCE CO. LTD. AND ANR

...
Advocate for Applicants : Mr. Jadhavar Kiran B.
Advocate for Respondents : Mr. D.P. Deshpande
.....

CORAM : V. K. JADHAV, J.
DATED : 29th APRIL, 2016

PER COURT:-

1. Learned counsel for the respondent-insurer submits that the respondent insurer has been directed by the Tribunal to pay the amount of compensation first and then to recover it from owner of the vehicle. Learned counsel submits that in view of observations made by the Supreme Court in the case of ***Oriental Insurance Company Ltd. vs. Shri Nanjappan and others, reported in (2004) 13 SCC 224*** that before allowing the claimants to withdraw entire amount, the respondent-owner shall be directed to furnish security for the amount under award.

2. In the case in hand, the respondent-insurer has raised defence that the driver of auto rickshaw was not having valid and effective driving licence at the time of accident. Thus, in view of authoritative

pronouncement of the Supreme court in the case of ***S. Iyyapan vs. M/s. United India Insurance company Ltd. and Anr. reported in AIR 2013 SC 2262***, the Tribunal has directed the respondent-insurer to pay compensation first and then to recover it from the owner.

3. In view of this, the claimants are permitted to withdraw the entire amount on furnishing undertaking to the satisfaction of Registrar (Judicial) of this Court.

4. Civil application is disposed of accordingly.

(V. K. JADHAV, J.)

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