

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.589 OF 2016
IN
FIRST APPEAL (ST.) NO.20473 OF 2015

Hemlata Kanhoba Salavi ... Applicant

vs.

The New India Assurance Company Limited ... Respondent

Mr. S.G. Thorat, for the Applicant.

Mr. S.S. Jinsiwale, for the Respondent.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 12th FEBRUARY, 2016

P.C.

. The application is moved for withdrawal of the amount.

The learned counsel for the Applicant submits that the Tribunal has fixed compensation of Rs. 27,64,704/-. He therefore, submits that the Applicants be allowed to withdraw the said amount.

2. The learned counsel for the Respondent-Insurance Company opposes the application and submits that the Appellant/Insurance Company has good case on merit. The policy

was act only and therefore the Applicant was not entitled to receive any amount. He submitted that the Insurance Company has adopted the defence of contributory negligence. He further submits that the applicant-wife has already withdrawn 25% of the compensation amount.

3. The deceased left behind two dependents i.e. applicant-wife and Respondent No. 5-mother. The Tribunal has awarded compensation @ 75% to the applicant-wife and 25% to Respondent No. 5-mother. In view of this, I am inclined to allow the application.

4. The applicant-wife is allowed to withdraw 25% of the principal amount and the said amount is to be divided in the apportion of 75% - 25% between Applicant-wife and mother.

5. Accordingly, Civil Application stands disposed of.

(MRS.MRIDULA BHATKAR, J.)