

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**FIRST APPEAL NO.1960 OF 2009
WITH
CIVIL APPLICATION (ST.) NO. 2093 OF 2016
AND
CIVIL APPLICATION (ST.) NO. 3059 OF 2016
IN
FIRST APPEAL NO.304 OF 2001**

Vidya Girish Mudabidri and Another ... Appellants

vs.

The New India Assurance Company
Limited and Another ... Respondents

Mr. M.G. Barve, for the Appellants.

Mr. Jinsiwale, for the Respondent-Insurance Company.

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

DATE: **4th FEBRUARY, 2016**

P.C.:

Civil Application (St.) No. 2093 of 2016 :-

. The learned counsel appearing for the Insurance Company submits that he wants to move an application for restoration of First Appeal which was dismissed on 14th January, 2016. By that order, the learned counsel Mr. Joshi is directed not to appear in this matter. Hence, the earlier order of restoration in Civil Application (St.) No. 2093 of 2016 does not survive.

2. Accordingly, Civil Application (St.) No. 2093 of 2016 stands disposed of with liberty to file a fresh restoration application.

Civil Application (St.) No. 3059 of 2016 :-

3. This application is filed for withdrawal of the amount which is deposited by the Insurance Company with the Registrar of this Court.

4. The learned counsel Mr. Barve submits that the entire amount is deposited in this Court by the order dated 14th January, 2016. He submits that as the First Appeal is dismissed, he be allowed to withdraw the entire amount.

5. The learned counsel for the Insurance Company submits that the Insurance Company is going to file an application for restoration as the Appeal is already taken up for hearing and therefore no amount is to be allowed to be withdrawn. He submitted that the Insurance Company has good case on merits as the challenge is mainly on the point of negligence and quantum.

6. On query it is found that the Insurance Company has deposited the principal amount in the High Court along with the interest. The interest which accrued on the said amount is directly deposited in the bank account of Appellant No. 1 i.e. original claimant/widow and the amount which was deposited by the Insurance Company is invested by the Registrar of this Court.

7. The claimants are allowed to withdraw 50% of the amount which is deposited by the Insurance Company on furnishing usual undertaking.

8. Accordingly Civil Application (St.) No. 3059 of 2016 is disposed of.

9. Stand over to 25th February, 2016.

(MRS.MRIDULA BHATKAR, J.)