

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 3208 OF 2015
IN
FIRST APPEAL NO. 300 OF 2013

Sunita Kumar Roopal Sharma @ Pandit .. Applicant

In the matter between

The New India Assurance Co. Ltd. .. Appellant

Vs.

Sunita Kumar Roopal Sharma @ Pandit & Anr. .. Respondents

Mr. V. M. Parkar for the Applicant.

Mr. D. R. Mahadik for Respondent/Appellant.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 26th SEPTEMBER, 2016.

P. C. :

1. This is an application seeking withdrawal of the amount of compensation deposited in the Trial Court. It is submitted that the applicant is the mother of the deceased and presently running the age of 68 years and hence during her lifetime she is not having any source of income and in such situation, at least for her medical expenses and maintenance, she may be permitted to withdraw the amount of compensation.

2. Though, learned counsel for the respondent opposes the application on the count that the deceased was not in the service and the employer-employee relation is also disputed, the observation made by the

Trial Court reveals that the only ground raised before the Trial Court that the deceased was not in permanent employment.

3. In view thereof, considering the age of the applicant, permission needs to be granted to withdraw the amount subject to usual undertaking. The application is allowed. The applicant is permitted to withdraw the entire amount of compensation, as deposited in the Trial Court, subject to furnishing usual undertaking that, in case, the decision of the appeal is against the applicant, the applicant will return the amount with interest to the Insurance Company.

4. The Civil Application is disposed of accordingly.

[DR. SHALINI PHANSALKAR-JOSHI, J.]