

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 4199 OF 2016
IN
FIRST APPEAL (STAMP) NO. 16009 OF 2012

Mr. Hasmukh Otterchand Kubadia .. Applicant

In the matter between

New India Assurance Co. Ltd. .. Appellant

Vs.

Mr. Hasmukh Otterchand Kubadia & Anr. .. Respondents

Mr. Ketan Joshi h/f. D. S. Joshi for the Applicant.

Mr. A. M. Gokhale for Respondent No.1.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 1st OCTOBER, 2016.

P. C. :

1. This is an application preferred by the original claimant seeking withdrawal of the amount of compensation as deposited by the Insurance Company in the Tribunal on 08.10.2012 to the tune of Rs.2,28,750/-.

2. It is submitted that for the medical expenses of the injuries sustained by the son of the applicant in the fatal accident, the applicant had to incur loan and hence to satisfy the said loan amount, the applicant needs to withdraw the amount deposited in the Tribunal.

3. Learned counsel for the respondent-Insurance Company points out that the impugned award is challenged on the ground of finding of negligence and also the quantum of compensation and hence the applicant may not be permitted to withdraw the entire amount

4. Considering the requirement of the applicant and the fact that the appeal is not likely to be heard immediately as the notice is yet to be served on respondent No.2-the owner of the vehicle, the applicant is permitted to withdraw 50% of the amount of compensation along with interest accrued thereon as deposited with the Tribunal, subject to furnishing usual undertaking without insisting on any security.

5. The Civil Application is disposed of accordingly.

[DR. SHALINI PHANSALKAR-JOSHI, J.]