

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 4203 OF 2016
IN
FIRST APPEAL (STAMP) NO. 15840 OF 2012

Mr. Hasmukh Otterchand Kubadia & Anr. .. 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 entire amount of compensation as deposited by the Insurance with the Tribunal on 08.10.2012 to the tune of Rs.6,53,919/-.

2. The applicant No.1 is the husband and applicant No.2 is the son of the deceased. It is submitted that in the same incident, applicant No.2 has also sustained injuries. As a result, substantial amount is required by the applicant for his medical expenses. He has also incurred medical expenses for the treatment of his deceased wife.

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. Having regards to the needs of the applicant and coupled with the fact that the delay is not likely to be heard immediately, the applicants are 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.]