

Amk

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2527 OF 2016
IN
FIRST APPEAL NO. 1149 OF 2016**

Mr. Mohan Dyaneshwar Paramane & Anr. .. Applicants

In the matter between

National Insurance Co. Ltd. .. Appellant

Vs.

Mr. Mohan Dyaneshwar Paramane & Ors. .. Respondents

Mr. V. R. Gaikwad for the Applicants.

Mrs. Urmila K. Sanil for the Respondent/Appellant.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 18th OCTOBER, 2016.

P. C. :

1. This application is preferred by the original claimants seeking withdrawal of the amount of compensation as deposited by the respondent-Insurance Company with the Tribunal. The applicants are the legal heirs of the deceased and due to accidental death of the deceased, they are having no source of income as the deceased was the only earning member of the family. Hence, it is submitted that the applicants may be permitted to withdraw the amount of compensation deposited with the Tribunal.

2. Learned counsel for the respondent-Insurance Company has opposed this application on the ground that the award is challenged not

only on the quantum but also on the count that the accident has occurred due to sole negligence of the deceased.

3. In view thereof, as the appeal is not likely to be heard immediately, in order to enable the applicants to have some amount towards their maintenance, they are permitted to withdraw 30% of the amount as deposited by the Insurance Company in the Trial Court on furnishing usual undertaking.

4. Learned counsel for the applicants requests that the applicants may be permitted to withdraw 20% more amount and thus, total 50% of the amount. However, in that case, for the remaining 20% amount the applicants have to be furnished bank guarantee. If they do so, the Tribunal shall pay the amount.

5. The Civil Application is, accordingly, disposed of.

[DR. SHALINI PHANSALKAR-JOSHI, J.]