

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

CIVIL APPLICATION NO.2532 OF 2015

IN

FIRST APPEAL NO.321 OF 2010

Mr. Lalji Bechaisingh Thakur and another .. Applicants

IN THE MATTER BETWEEN

The United India Ins. Co. Ltd. .. Appellant

Versus

Mr. Lalji Bechaisingh Thakur and others .. Respondents

Mr. T. J. Mendon for the Applicants.

Ms. Divya Menon i/by Mr. S. M. Vidyarthi for the original Appellant.

CORAM : R.M. SAVANT, J.

DATE : 28th JULY 2016

PC.

1 The above Civil Application has been filed for withdrawal of the amount deposited by the Insurance Company in the office of the Commissioner for Workmen's Compensation, Mumbai. There is an Award in the sum of Rs.4,42,400/- with interest of 12% per annum in favour of the Applicants who are the parents of the deceased. It seems that the Applicant Nos.1 and 2 are over 70 years of age. The deceased was a driver working on the vehicle in question which met with an accident. The

challenge in the above First Appeal is on the ground that the Insurance Company could not be made liable for payment of compensation, the Learned Counsel appearing on behalf of the Insurance Company also opposes the above Civil Application on the said ground. However Section 147(1) of the Motor Vehicles Act, 1988 and the proviso thereto makes it clear that the policy would cover a liability arising under the Workmen's Compensation Act in respect of the death or bodily injury to any such employee. The Learned Counsel for the Applicants also seeks to rely upon the judgment of the Apex Court reported in **2005 ACJ 1323** in the matter of **National Insurance Co. Ltd. Vs. Prembai Patel and others** wherein the Apex Court has held that the liability of the Insurance Company is limited to the extent arising under the Workmen's Compensation Act.

2 In my view, therefore, it would be just and proper to permit the Applicants to withdraw an amount of Rs.2,50,000/- with commensurate interest. The Civil Application is accordingly allowed to the aforesaid extent and disposed of.

[R.M. SAVANT, J]