

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2796 OF 2016  
IN  
FIRST APPEAL NO.1359 OF 2015

Akkatai Chandrakant Sargar & Anr. .. Applicants

In the matter between:

ICICI Lombard General Insurance Co. Ltd. ..Appellant

*-Versus-*

Smt. Akkatai C. Sargar & Ors. ..Respondents

Mr. Bhushan Walimbe for applicant

Ms. Shraddha Pawar i/b. Dilip Bodake for respondent No.2

Mrs. Urmila Sanil for respondent No.5

WITH

CIVIL APPLICATION NO.4253 OF 2015

ICICI Lombard General Insurance Co. Ltd. .. Applicant

Versus

Smt. Akkatai C. Sargar & ors. ..Respondents

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 3<sup>rd</sup> October 2016.

P.C.

1] This is an application for withdrawal of the amount of compensation as deposited by the Insurance company – the appellant in

this case. It is submitted that the applicant No.1 is the wife and applicant No.2 is son of the deceased. Due to the death of the deceased in the fatal accident, they have lost their source of income and they require certain amount urgently for their daily maintainance.

2] Learned Counsel for the insurance company resisted the application on the ground that the claim petition is challenged raising the plea of total exoneration and hence if the amount is allowed to be withdrawn, it would be difficult for the appellant company to recover the same if the appeal is decided in the favour of insurance company.

3] Considering the facts that the appeal is not likely to be heard immediately as respondent No.4 and respondent No.6 are yet to be served and also having regard to the fact that the appellant insurance company can recover the compensation amount from the owner of the other truck and the insurance company of that truck, considering the requirements of the applicants, the applicants are permitted to withdraw 50% of the amount with interest accrued thereon on furnishing usual undertaking but without insisting for security. If the applicant claimants want to withdraw the entire amount then for balance 50% amount the applicant shall furnish bank guarantee.

4] Application is accordingly disposed of.

(DR. SHALINI PHANSALKAR-JOSHI, J)