

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3292 OF 2013
WITH
CIVIL APPLICATION NO.1564 OF 2013
IN
FIRST APPEAL NO.462 OF 2013

Jitendranath Jha and Others	... Applicants
<i>In the matter between</i>	
New India Assurance Company Limited	... Appellant
vs.	
Jitendranath Jha and Others	... Respondents

Mr. Sanjay Krishnan i/b. Legal Consultants, for the Applicant.
Mr. Nirman Sharma i/b. Ms. Vijaya Tamhane, for Respondent
Nos. 1 to 5 in F.A. No. 462 of 2013 and for Applicant in CAF. No.
3292 of 2013.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **13th JANUARY, 2016**

P.C.:

. The Civil Application No. 3292 of 2013 is moved for withdrawal of the amount of Rs. 32,09,500/- deposited by the Insurance company pursuant to the order dated 5th April, 2012.

2. The learned counsel for the Applicants submit that the accident had taken place on 5th December, 2004 i.e. 10 years back and

the original claimants i.e. parents, widow and the minor children have not received any amount till today.

3. The learned counsel for the Insurance Company opposes the application on the ground that the Insurance Company has good case on merit as the vehicle involved in the accident is different.

4. Perused the judgment. It appears that the Insurance company has not tendered any oral evidence and the necessary documentary evidence. In view of this, the Applicants/Claimants are allowed to withdraw 50% of the principal amount of the award which is ordered to be deposited on furnishing undertaking. The remaining amount is to be invested into the fixed deposit.

5. Accordingly Civil Application No. 3292 of 2013 stands disposed of.

(MRS.MRIDULA BHATKAR, J.)