

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3429 OF 2016

IN

FIRST APPEAL (STAMP) NO.22340 OF 2014

Sharda Babu Chandane.] ... Applicant

In the matter between :

National Insurance Co. Ltd.] ... Appellant

Versus

1. Sharda Babu Chandane,]
2. Atul Sudhakar Patil.] ... Respondents

Mr. Bhushan Walimbe for Applicant.

Mr. Kalpesh Patil i/b Mr. Umesh H. Pawar for Respondent No.2.

CORAM :- DR. SHALINI PHANSALKAR-JOSHI, J.

DATE :- OCTOBER 26, 2016

P. C. :-

1. This is an application filed by the original claimant seeking withdrawal of amount of compensation as deposited by the appellant - Insurance Company in MACT, Islampur, District Sangli. The applicant is the mother of the deceased and her only source or income, her son, has died in the accident.

2. The learned Counsel for respondent no.2 submitted that the Award is challenged on the ground of Section 149(2a) of the Motor Vehicles Act i.e. breach of policy. It is submitted that in a tanker carrying hazardous chemicals the deceased was the Cleaner who had taken some passengers.

3. The learned Counsel for applicant pointed out that in respect of the driver of the said accident who has died, in the application filed by the legal heirs bearing Civil Application No.3440 of 2016 in First Appeal (Stamp) No.25691 of 2014. This Court, has, vide its order dated 12/08/2016, permitted the legal heirs to withdraw the entire amount subject to the outcome of the appeal.

4. Considering the same, it would be just and proper to permit the applicant to withdraw the entire decretal amount from the MACT, Islampur, District Sangli, subject to the outcome of the appeal. The applicant shall undertake that in case the decision of the appeal goes against her, she would return the entire amount with interest accrued thereon.

5. The Civil Application is disposed of.

(DR.SHALINI PHANSALKAR-JOSHI, J.)