

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4153 OF 2016
IN
FIRST APPEAL (STAMP) NO.14549 OF 2015

Daksha Jayesh Revkar & Anr.	 Applicants
<i>In the matter between</i>	
The New India Assurance Co. Ltd., Mumbai	 Appellant
V/s.	
Daksha Jayesh Revkar & Ors.	 Respondents

Mr. T.J. Mendon for the Applicants.

Mr. D.R. Mahadik for Respondent-Original Appellant-Insurance Company.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 27TH SEPTEMBER 2016.

P.C. :

1. Heard learned counsels for the parties.

2. This is an application filed by the original claimants seeking withdrawal of the amount of compensation, as deposited by the appellant-Insurance Company in M.A.C.T., Mumbai in M.A.C.P. No.2245 of 2008. It is submitted that the Deceased was the only earning member of the family and on account of his death, the applicants are having no source of income for their maintenance. Hence, they may be permitted to withdraw the amount of compensation.

3. Learned counsel for the appellant-Insurance Company has opposed this Civil Application on the ground that, the accident had occurred due to sole negligence of the Deceased. The submission of learned counsel for the applicants is that the claim was filed under Section 163-A of Motor Vehicles Act and the Trial Court has also, in view thereof, rejected this contention.

4. Considering the submissions advanced by the learned counsel for the parties and having regard to the need of the applicants and also keeping in mind the fact that the First Appeal is not likely to be heard in near future, the applicant No.1 is permitted to withdraw 50% of the amount of compensation, without furnishing any security, but, subject to furnishing usual undertaking.

5. The balance amount of compensation be invested by the Trial Court in any Nationalized Bank, initially, for a period of two years, to be renewed from time to time thereafter.

6. Civil Application stands disposed of in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]