

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

CIVIL APPLICATION NO. 3849 OF 2016
IN
FIRST APPEAL (STAMP) NO. 12922 OF 2016

Hemlata Dattatray Jagtap & Ors. .. Applicants

In the matter between

The New India Assurance Co. Ltd. .. Appellant

Vs.

Hemlata Dattatray Jagtap & Ors. .. Respondents

Ms. Poonam Mital for the Appellant.

Mr. Drupad S. Patil for the Applicants/Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 26th AUGUST, 2016.

P. C. :

1. This is an application preferred by the original claimant seeking withdrawal of the amount of compensation. It is submitted that applicant No.1 is the widow of the deceased. Applicant Nos.2 and 3 are the sons and applicant No.4 is the mother. It is urged that applicant No.1 is having no source of income and she intends to start some household business to support her family. Whereas, applicant No.4 being 56 years of age, at present some amount is required for her medical treatment.

2. Learned counsel for the Insurance Company points out the observations made in the impugned Judgment of the Tribunal relating to the testimony of applicant No.1 that applicant No.1 alone was the

dependent on the income of the deceased. Moreover, it is submitted that the Insurance Company is challenging the quantum of compensation awarded to the claimants and also made out a case of contributory negligence. Hence, according to learned counsel for the Insurance Company, applicants cannot be permitted to withdraw the entire amount of compensation.

3. In view thereof, considering the needs of the applicants, applicant No.1 is permitted to withdraw 50% amount of her share, along with interest accrued thereon as allotted to her, by the impugned order of the Tribunal. Similarly, applicant No.4 is also permitted to withdraw 50% amount along with interest accrued on the share allotted to her, by the impugned order of the Tribunal.

4. Both, applicant Nos.1 and 4 to furnish usual undertaking.

5. The Civil Application is disposed of accordingly.

[DR. SHALINI PHANSALKAR-JOSHI, J.]