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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4545 OF 2016
IN
FIRST APPEAL (ST) NO.11236 OF 2014

Rakhi Brijesh Desai and anr Applicants

In the matter of

The New India Assurance Co.Ltd. .. appellant.

V/s.

Rakhi Brijesh Desai and anr . Respondents.

Mr. A. M. Gokhale, for the Applicants.

Mr. D. J. Joshi, for the appellant..

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 24TH OCTOBER, 2016.

P.C. :

1. This application is preferred by the original claimants seeking withdrawal of the compensation amount as deposited by the Insurance Company. It is submitted by learned counsel for applicants that applicant No.1 is widow and applicant No.2 is the minor son of the deceased. On account of untimely death of the deceased, they have lost their only source of income, some amount is required for their maintenance and also for the educational expenses of applicant No.2. It is submitted that

they have received till date only Rs.1,50,000/- as awarded by this Court, vide its order dated 20th March, 2015 and Rs.50,000/- towards N.F.L.

2. Learned counsel for appellant insurance company opposed this application, mainly on the ground that award is challenged on all counts including that insurer was not having valid driving licence. However, taking into consideration the fact that need of the applicant is genuine and appeal is not likely to be heard immediately, this application deserves to be allowed to the extent of permitting withdrawal of 30% of the total amount of compensation as deposited by the Insurance Company with the Tribunal. The applicants are accordingly allowed to withdraw 30% of the amount deposited by the Insurance Company in the Tribunal subject to furnishing usual undertaking but without insisting any security.

3. Ordered accordingly.

4. Application is disposed of accordingly.

[DR. SHALINI PHANSALKAR JOSHI, J.]