

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3360 OF 2014
IN
FIRST APPEAL (STAMP) NO.34236 OF 2013

Veena Nitin Bose Nair & Ors.	 Applicants
<i>In the matter between</i>	
The New India Assurance Co. Ltd., Thane	 Appellant
V/s.	
Veena Nitin Bose Nair & Ors.	 Respondents

Mr. R.S. Chahal for the Applicants-Original Respondent Nos.1 and 2.

Mr. S.M. Dange for the Respondent-Original Appellant.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 1ST SEPTEMBER 2016.

P.C. :

1. Heard learned counsel for the parties.

2. This is an application filed by the original claimant Nos.1 and 2 seeking withdrawal of the amount under the Award, as deposited by the appellant-Insurance Company in M.A.C.T., Thane in M.A.C.P. No.32 of 2009.

3. It is submitted that, as per the Award, applicant No.1 is given 70% of the amount, whereas, applicant No.2 is given 30% of the amount under

the Award. According to learned counsel for the applicant Nos.1 and 2, applicant No.1 is the widow of the Deceased and needs certain amount for her maintenance; to satisfy bare necessities of the life, whereas, applicant No.2 is the father of the Deceased and being the age-old person of 73 years, for his medical expenses, he needs certain amount.

4. Learned counsel for the appellant-Insurance Company submits that the Insurance Company is challenging the entire Award on the ground that there was some confusion relating to involvement of the vehicle and if the contention of learned counsel for the appellant-insurance Company is accepted, then, the appellant-insurance Company will be absolved from the entire liability.

5. In view thereof, the Civil Application is allowed partly. Applicant Nos.1 and 2 are permitted to withdraw the amount of Rs.5,00,000/-, each, without furnishing any security, but subject to furnishing usual undertaking to the effect that, in case the decision in the First Appeal goes against the applicants, they will repay the entire amount along with interest.

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

[DR. SHALINI PHANSALKAR-JOSHI, J.]