

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CIVIL APPLICATION (CAF) NO.1574 OF 2016

IN

FIRST APPEAL NO.425 OF 2016

(Shriram General Insurance Co. Ltd. ..vs.. Smt. Manda Dinkarrao Rajnekar and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 18-08-2016

Heard Shri S.S. Alaspurkar, Advocate for the applicant/respondent Nos.1 to 4, Shri P.N. Khadgi, Advocate for the appellant and Shri S.N. Dhanagare, Advocate for the respondent No.8.

The defence of the appellant-Company is that the Tractor involved in the accident was insured with the Oriental Insurance Company Ltd., Amravati and suppressing this fact the owner of the Tractor present respondent No.6 had drawn insurance of the Tractor with the appellant-Company. The defence raised by the appellant- Company cannot divest the claimants of their entitlement and even if the appellant succeeds in the appeal, the appellant will be entitled to recover the amount from Oriental Insurance Company Ltd., Amravati.

In view of the above and the directions given by the Tribunal that the present respondent No.1 shall invest 25% of the amount of compensation in Nationalised Bank for five years in fixed deposit, the respondent Nos.1 to 4 are permitted to withdraw Rs.4,00,000/- from the amount deposited by the appellant with the Registry of this Court. The 85% of the amount of Rs.4,00,000/- shall be given to the respondent No.1 and 5% of the amount of Rs.4,00,000/- shall be given to each of the respondent Nos.2 to 4 i.e. in the ratio as directed by the Tribunal.

The balance amount shall be kept in Nationalised Bank in fixed deposit for the period of four years.

The respondent Nos.1 to 4 are granted liberty to move application again for withdrawal of the amount after four years if the appeal is not disposed.

The civil application is allowed in the above terms.

JUDGE

adgokar

CERTIFICATE

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by : P.M. Adgokar.

Uploaded on : 19-08-2016.

P.A. to Hon'ble Judge.