

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 14384 OF 2016
IN FAST/22166/2016
WITH
CIVIL APPLICATION NO. 11040 OF 2016
IN FIRST APPEAL ST. NO. 22166 OF 2016.

SWATI NANDULAL BADGUJAR AND ORS
VERSUS
THE NATIONAL INSURANCE CO. LTD.

...
Advocate for Applicants : Mr. Patil Bipinchandra K
Advocate for Respondents : Mr. S.S. Chapalgaonkar
.....

CORAM : V. K. JADHAV, J.
DATED : 6th JANUARY, 2017

PER COURT:-

1. The learned counsel for the applicants submits that even though the accident had taken place in the year 2012, no amount of compensation has been paid to the claimants. The applicant No.1 is widow, applicant Nos. 2 and 3 are minor claimants and the claimant No.4 is aged mother of deceased. Learned counsel submits that the bread earner of the family met with an accidental death and there is nobody in the family to look after the business established by the deceased.

2. Learned counsel for the respondent insurer has strongly resisted the application on the ground that the vehicle involved in the accident was not having valid permit at the time of accident and thus,

the statutory defence is available to the respondent insurer. Learned counsel submits that the application therefore is liable to be rejected.

3. The applicant No.1 is widow, aged 30 years, applicant Nos. 2 and 3 are the minor claimants, aged 12 and 10 years respectively and applicant No.4 is aged mother of deceased. It appears that there is nobody in the family to look after the business and as such there is no source of earning at present. In view of this, the applicants are permitted to withdraw 50% of the amount deposited before this Court, on the condition that applicant No.1 shall furnish undertaking to the satisfaction of Registrar (Judicial) of this Court, and the remaining amount shall be kept in fixed deposit, in any Nationalized Bank, initially for a period of three years and thereafter, as directed by this Court, if the appeal remains pending. Civil application for withdrawal is disposed of.

4. In so far as civil application for delay is concerned, learned counsel for the applicant seeks time to take necessary steps as against unserved respondent No.5.

(V. K. JADHAV, J.)

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