

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

918 CIVIL APPLICATION NO. 13797 OF 2017
IN FA/1202/2014

TARABAI PANDURANG LAGHANE

VERSUS

UNITED INDIA INSURANCE COMPANY LTD., THR ITS BRANCH
MANAGER, AURANGABAD AND ORS

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Advocate for Applicant : Mr. Sayyed Tauseef Yaseen
Advocate for Respondent No.1 : Mr. M. R. Deshmukh h/for
Mr. S. G. Chapalgaonkar

CORAM : K. K. SONAWANE, J.

DATE : 16th November, 2017

ORDER:

1. Heard learned counsel for the applicant and learned counsel Mr. Deshmukh, for the respondent Insurance Company. None appears for rest of the respondents. Perused the application.

2. Learned counsel for the respondent Insurance Company submits that the applicant is step mother of the claimants Dinesh and Sheetal who are son and daughter of the deceased Pandurang. Parents of the deceased are no more. The tribunal has allocated sum of Rs.2 lakhs in favour of the applicant Tarabai.

3. The learned counsel for the respondent Insurance company raised objection for disbursement of entire sum of Rs. 2 lakhs in favour of the applicant -Tarabai

on the ground that the Insurance Company has filed appeal agitating findings of the learned Tribunal. According to the learned counsel for the Insurance Company, the deceased Pandurang was rider of the vehicle involved in the accident. There was contributory negligence on the part of deceased Pandurang. Moreover, there are legal issues involved in this matter for payment of compensation due to absence of valid driving licence by a driver of the offending vehicle and therefore he prayed not to disburse the entire amount in favour of the applicant.

4. Having heard the rival contentions of both the sides, I find that 50% amount of compensation deposited in this Court towards share of applicant Tarabai is required to be allowed for withdrawal on behalf of the applicant- Tarabai. It would not cause any injustice and prejudice to the Insurance Company. The learned tribunal determined the quantum of Rs. 2 lakhs being compensation in favour of the applicant Tarabai in this matter. Therefore 50% of the said amount i.e. Rs. 1 lakh deserves to be granted to be withdrawn by the said Tarabai to subserve the purpose of filing of the present application. Hence the application is partly allowed.

5. Sum of Rs. one lakh from the amount deposited in this Court by the respondent Insurance Company be allowed to be withdrawn by the applicant Tarabai on furnishing undertaking that in case adverse situation arises, she would refund the amount forthwith as per order of this Court.

6. Registry to do the needful for disbursement of the amount of Rs. one lakh in favour of applicant Tarabai as mentioned above. Accordingly the application stands disposed of.

(K. K. SONAWANE, J.)

JPC