

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

914 CIVIL APPLICATION NO. 13719 OF 2017
IN FA/4319/2016

NILAWATI SHIVSHANKAR SHINDE AND ORS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR AUTHORIZED SIGNATORY
AURANGABAD AND ORS

...
Advocate for Applicants : Mr. Dnyaneshwar J. Patil
Adv. for Respondents: Mr. D.P. Deshpande

CORAM : K.K. SONAWANE, J.

DATE : 14th November, 2017.

PER COURT:

1] Heard learned counsel for the applicant and learned counsel for the Insurance company. None appears for respondent Nos. 2 and 3. The learned counsel Shri Deshpande, appearing for Insurance company vociferously opposed for grant of any permission to withdraw the amount deposited in this court in favour of the applicant. According to learned counsel Mr. Deshpande the issue of involvement of the vehicle in this case is put in controversy. There are documents on record from which it can be inferred that the alleged vehicle was not involved in the mishap. Therefore, the Insurance Company is not liable to indemnify the loss.

2] Considering the attending circumstances on record and the findings of the learned Tribunal, I find that the applicant be allowed to withdraw the total sum of Rs. 6,00,000/- from the amount deposited on behalf of the respondent Insurance Company. The balance amount will be deposited in the Fixed Deposit Account so that interest of the Insurance company can be protected.

3] Accordingly, the application stands partly allowed. The applicant No.1 Smt. Nilawati w/o Shivshankar Shinde be allowed to withdraw a total sum of Rs. 3 Lakhs deposited in this court, as compensation on behalf of the respondent/Insurance company. Applicant No.5 Narsing Limbraj Shinde and applicant no. 6 Sheshabai Narsing Shinde both are entitled to withdraw Rs. 1,50,000/- each from the amount deposited in this court. The applicants Nos. 1,5 and 6, shall furnish an undertaking to the satisfaction of the Registrar (Judicial) of this court, to the effect that in case adverse situation arises after adjudication of the appeal on merit, in favour of the appellant insurance company, the applicants will refund the amount forthwith as per the directions of this Court.

4] Rest of the amount deposited on behalf of the insurance company be invested in fixed deposit any nationalized bank for a period of two years or till adjudication on merit. The applicant no. 1 will be at liberty to withdraw the amount kept in fixed deposit in case of exigency of expenses for education of applicant nos. 2 and 3. Registry to do the needful for disbursement of the amount in favour of the applicants, as mentioned above, as per rules. Application for withdrawal of amount stands disposed of accordingly.

[K.K. SONAWANE]
JUDGE.

grt/-