

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 3885 OF 2016
IN
FIRST APPEAL NO. 189 OF 2014

Divisional Manager, The New India Assurance
Co Ltd

...Appellants

Versus

Sharda Kapoorchand Goda & Ors

...Respondents

Mr Shrikant M Dange, for the Appellants.

Mr Ram Krushna Yedave, i/b Vijay Killedar, for Respondent No.1.

Mr Swaroop Karade, i/b Surel Shah, for Respondent No. 2.

CORAM: G.S. PATEL, J

DATED: 4th July 2017

PC:-

1. This is an application by the original Respondents Nos. 1 and 2 for withdrawal of the decretal amount. The claim arose out of a fatal accident. There was a collision between the motorcycle and a bus. The Tribunal awarded Rs.15,96,000/-. The principal dispute is about contributory negligence. Mr Dange for the Appellants submits that the victim was himself equally responsible for the accident. This should mean that the responsibility for the accident should have been apportioned 50:50 rather than finding that the victim was responsible only for 10% of the accident. There may be substance to

this. It is difficult to see how such precise figures of 10%:90% can be determined in matters such as this.

2. If the finding should, as Mr Dange says, be of a 50:50 responsibility, then this must also mean that Respondent Nos. 1 and 2, the original Claimants, should be entitled to withdraw 50% amount deposited. The Respondents are permitted to withdraw 50% of the amount deposited with proportionate interest without security or undertaking.

3. The MACT, Pune will permit this withdrawal acting on presentation of an authenticated copy of this order. The requirement of security and undertaking is waived. The remaining amount is to be deposited in the fixed deposit of any Nationalised Bank, if not already done.

4. The Civil Application is disposed of with no order as to costs.

(G. S. PATEL, J.)