

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1805 OF 2017
IN
FIRST APPEAL NO.477 OF 2017

Vasantrao Bhikoba Mali

... Applicant

IN THE MATTER OF

New India Assurance Co. Ltd.

... Appellant

Vs.

Vasantrao Bhikoba Mali & Ors.

... Respondents

Mr.S.A. Sawant for the Applicant

Ms.S.S. Dwiveddi for appellant in FA/477/2017

Mr.Chaitanya Nikte for Respondent No.3

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 27th SEPTEMBER, 2017

P.C.:

1. The application is moved by the original claimant / father for withdrawal of the amount deposited by the insurance company as per the impugned judgment and award dated 27.8.2014 in MACP No.373 of 2005 by the learned Additional Member, Motor Accident Claims Tribunal, Pune. The learned Member, Motor Accident Claims Tribunal, has granted a compensation of Rs.9,83,000/- with interest @ 8% p.a.

2. The learned Counsel for the applicant/claimant has submitted that the insurance company has deposited an amount of Rs.18,90,698/-, out of which an amount of Rs.5 lakhs is already withdrawn on 30.3.2017. The learned Counsel submits that the original claimant/mother has expired during the pendency of the appeal. The father is 71 years old and he is facing problem of kidney failure. He is admitted in hospital as on today to take medical treatment and hence, needs money.

3. Learned Counsel for the Insurance Company while opposing this claim submits that the applicant has already withdrawn Rs.5 lakhs in the month of March, 2017. She submits that the vehicle was not insured at the relevant time with the insurance company. Moreover, the learned Member, Motor Accident Claims Tribunal, has adopted a wrong multiplier of 16 and instead it should have been 13. She submits that the insurance company has a good case on merits.

4. Learned Counsel for the original owner, the insured, is present and submits to the orders of the Court.

5. In view of the submissions of the learned Counsel for the parties, the original claimant / father is allowed to withdraw Rs.10

lakhs (Rupees Ten Lakhs only) on furnishing usual undertaking before the Registrar, Motor Accident Claims Tribunal, Pune.

6. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)