

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 3512 OF 2014
IN
FIRST APPEAL NO. 1033 OF 2013**

Nirmala Narhari Bute ...Applicant

In the matter of :

The Divisional Manager,
Bajaj Allianz General Insurance Co.Ltd. ...Appellant

Vs.

Smt.Nirmala Narhari Bute & Anr. ...Respondents

Mr.A.S. Pandire I/b. J.M. Inamdar for Applicant.

Mr.Vineet Shetty I/b. M.M. Sathaya for Respondents.

CORAM : S.C. GUPTE, J.

25 APRIL 2017

P.C. :

The first appeal challenges an order of compensation passed by MACT, Nashik on an accident claim petition. The impugned award of the Tribunal directs payment of compensation of Rs.1,71,000/- along with interest at the rate of 8% per annum from the date of the claim petition till payment or realization. Pursuant to this award, a sum of Rs.2,15,563/- has been deposited by the Appellant insurer before the trial court on 3 July 2014. The first appeal has been admitted on 11 June 2014.

2 The present civil application is for withdrawal of that compensation. The Applicant was a victim, who met with an accident whilst crossing the road. The grounds of challenge appear to be that the

insured motorcycle was driven by its rider without having valid licence and that the Applicant was negligent in crossing the road. There is no evidence placed before the court either on the alleged want of a valid driving licence or on the alleged negligence of the Applicant. In the premises, considering the *prima facie* merits of the first appeal, the original Applicant deserves to be permitted to withdraw a substantial part of the compensation deposited by the Appellant insurer.

3 Civil Application No.3512/2014 is, accordingly, allowed by permitting the Applicant to withdraw a sum of Rupees Two lakhs from out of the compensation deposited by the Appellant insurer with the MACT, Nashik without any security.

(S.C. GUPTE, J.)