

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1834 OF 2016
IN
FIRST APPEAL NO. 779 OF 2016

The New India Assurance Co Ltd Through Mumbai Regional Office-II	...Applicant
<i>Versus</i>	
Savitridevi Rajendraprasad Gupta & Ors	...Respondents

Mr DS Joshi, *for the Applicant.*
Mr TJ Mendon, *for Respondents Nos.1 to 7.*

CORAM: G.S. PATEL, J
DATED: 1st August 2017

PC:-

1. The Appellant has deposited the entire amount awarded with accrued interest. In view thereof, there will be a stay on execution.

2. Mr Mendon appears for the Claimants. He seeks an order of withdrawal. However, having regard to certain peculiarities in this matter, Mr Mendon is to file a formal Civil Application for withdrawal and a response from the insurer — Appellant will be necessary. The reason, briefly stated, is the discrepancy regarding the age of the deceased, said to be 52 years, when seen in

conjunction with the age of the 2nd Claimant, his eldest married daughter, who was said to be 35 years at that time.

3. Moreover, Claimants No.2 to 6 were all adults. Claimant No.7 was 19 years old. All the others were above the age of 21, Claimant No.6 being 23 and the others much older. The Tribunal seems to have taken deduction for self expenses of 1/5th of the assessed income. *Prima facie* this appears to be incorrect and the Tribunal should have considered the case of the Claimant No.1 widow and Claimant No.7, 19 years old son and ought to have made a deduction of 1/3rd.

4. The insurer will undoubtedly, therefore, need to reply to Civil Application for withdrawal of these and other associated matters. Liberty, therefore, to the Claimants to file the Civil Application at the earliest and further liberty to mention the Civil Application for an early hearing.

(G. S. PATEL, J.)

Note: This order is modified as per order dated 4th October 2018. The number of Civil Application in cause-title is corrected.