

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3863 OF 2017
IN
FIRST APPEAL NO.536 OF 2017

Shri Devendra Soma Vinjunda & anr. ... Applicants

IN THE MATTER BETWEEN:

Future Generali Insurance Co. Ltd. ... Appellant

Vs.

Shri Devendra Soma Vinjunda & Ors. ... Respondents

Mr.T.S. Ingale for the Applicants
Mr.D.R. Mahadik for Appellant in FA

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: DECEMBER 5, 2017

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. This is an application filed by the original claimants, who are the parents of the deceased, for withdrawal of the amount of compensation deposited by the appellant insurance company as per the judgment and award dated 13.10.2016 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai in MACP No.2320 of 2010. It is submitted that the applicant father is suffering from Paralysis. The learned Counsel for the applicants submits that

except the amount under No Fault Liability, no amount is received by the applicants.

3. Learned Counsel for the insurance company submits that the insurance company has good defence on merits on the ground that the driver of the offending vehicle was holding a fake driving licence and thus, there is a breach of the policy. It is submitted that the challenge is also given on the ground of quantum.

4. In view of the submissions of the learned Counsel, the application is allowed and the applicants are permitted to withdraw 50% of the compensation amount for which they are entitled to as per the judgment of the Tribunal alongwith the interest accrued thereon, upon furnishing usual undertaking to the satisfaction of the Registrar, Motor Accident Claims Tribunal, Mumbai.

5. Civil Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)