

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

First Appeal No. 358/2015

Reliance General insurance Company Ltd. Vs. Smt. Malti Prakash Bahe and others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri D.N.Kukday, Advocate for applicant.
Shri P.R.Agrawal, Adv. For R.Nos. 1 to 4.
Shri R.D.Karode, Adv. for R.no.5.

CORAM : N.W.SAMBRE, J.

DATE : APRIL 03, 2017

Heard.

Admit.

Shri P.R.Agrawal, learned counsel waives service on behalf of respondent nos. 1 to 4 and Shri R.D.Karode, learned counsel waives service on behalf of respondent no.5.

Paper book be filed within a period of 12 weeks from today, failing which the appeal shall stand dismissed without further reference to the Court.

CAF No.1561/2016

This is an application by the original claimants for withdrawal of amount of compensation. The application is objected by the learned counsel appearing for the Insurance Company by relying upon the judgment of Hon'ble Apex Court in the matter of *National Insurance Company Vs. Sinitha and others*, reported in *2012(4) Mh.L.J.98* and the judgment in the

matter of *United India Insurance Company Ltd. Vs. Sunil Kumar and another*, reported in IV (2013) ACC 482 (SC). As, according to him, the issue of negligence and entitlement of the claimant, who is owner of the vehicle pursuant to the provisions of Section 163-A of the Motor Vehicle Act is required to be examined.

In view of the order of the Hon'ble Apex Court in the matter of United India Insurance Company (supra), it will be appropriate, in my opinion, to permit the present claimants to withdraw 50% of the total amount deposited in this Court upon furnishing usual undertaking that in case the appeal is allowed, the claimants shall redeposit the said amount as will be directed by the Court at the relevant time. The balance amount be deposited in a fixed deposit of a Nationalized Bank, initially for a period of three years.

The application stands disposed of.

JUDGE

Andurkar..