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

C.A.F. No. 2038/2017 IN FIRST APPEAL No. 266/2016

NATIONAL INSURANCE COMPANY LTD. BRANCH CHANDRAPUR, THROUGH ITS REGIONAL OFFICE, NAGPUR -vs- SMT. BINDA KHANDU BORKUTE AND OTHERS.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Shri A.K. Somani, counsel for appellant.
Ms. K.R. Prajapati, counsel for respondent nos.1 to 6.
Shri Anjan De, counsel for respondent no.7.

CORAM: DR. SMT. SHALINI PHANSALKAR-JOSHI, J.
DATE : JUNE 22, 2017.

This is an application filed by the claimants/respondent nos.1 to 6, seeking withdrawal of the amount of compensation deposited by appellant in the court.

Learned counsel for appellant/insurance company opposes the application on the ground that there is a breach of insurance policy, and hence statutorodity appellant is not liable to pay any amount of compensation.

Learned counsel for respondent no.7 also opposes the application on the count that entire amount should not be allowed to be withdrawn.

Taking into consideration the reasons given in the application that of respondent nos.1 to 6 requiring the amount for their livelihood and also considering the fact that in case of appellant succeeding in proving the

breach of insurance policy, the remedy of the appellant lies to recover the amount from the owner of the vehicle, respondent nos.1 to 6 are permitted, at this stage, to withdraw 50% of the amount of compensation as deposited in the court, subject to condition of filing usual undertaking and solvent surety/security to the satisfaction of Registrar (Judicial).

Application is disposed of accordingly.

JUDGE

Yenurkar