

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

C.A.F. No. 3216/2017 IN FIRST APPEAL No. 909/2017

(THE NEW INDIA ASSURANCE CO. LTD. THROUGH BRANCH MANAGER, DISTT.
CHANDRAPUR -vs- SMT. MANISHA RAJESH PADGILWAR 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.W. Paunikar, counsel for appellant.

CORAM: DR. SMT. SHALINI PHANSALKAR-JOSHI, J.
DATE : AUGUST 03, 2017.

This is an application preferred by the original claimants, who are respondents in this appeal, seeking withdrawal of the entire amount of compensation deposited in the court, which is to the tune of Rs.39,48,386/-.

Learned counsel for appellant – insurance company has strongly resisted this application on the count that there are several defences raised by the insurance company, which are not properly considered by the Tribunal. Moreover, the amount of compensation awarded is also on the higher side.

As against it, submission of learned counsel for the claimants is that the Tribunal has not awarded the interest from the date of the petition, but only from the date of order and the amount of compensation

awarded by the Tribunal is also meager one, and hence the claimants have already filed the counter appeal for enhancement of the said amount. It is also submitted that the Tribunal has only permitted to Rs.2,00,000/- each to be deposited in the name of respondent nos.1 to 5 in the Nationalized Bank and the said amount comes to Rs.10,00,000/-. Hence, according to learned counsel for the respondents-claimants, claimants may be permitted to withdraw the remaining amount of Rs.29,00,000/- approximately.

However, in my considered opinion, having regard to the fact that respondent no.2 Shivani and respondent no.3 Shardul, who are the minor children and their amount of share cannot be withdrawn by respondent no.1, the mother, their share cannot be disturbed.

As regards the share of respondent no.4, he is already no more and therefore no question of permitting the respondent no.1 to withdraw the said amount.

Hence, considering this situation, the application is allowed partly.

Respondent no.1 is permitted to withdraw her share of the amount of Rs.10,00,000/-, whereas respondent no.5 is permitted to withdraw the amount of Rs.2,00,000/-, subject to furnishing of usual undertaking.

Rest of the amount be invested by the office in F.D.R. in any Nationalized Bank.

Needless to state that respondents-claimants are always at liberty to file the application for withdrawal of the remaining amount as and when need arises and the court is satisfied about it.

Application is disposed of accordingly.

JUDGE

Yenurkar