

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

CAF NO.3293/2017 IN FIRST APPEAL NO.384/2016

[National Insurance Company Limited .vs. Smt. Indubai w/o Jaisingh Gangawane and others]

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

Court's or Judge's orders

CORAM : KUM. INDIRA JAIN, J.

DATED : SEPTEMBER 06, 2017.

Heard Ms. B.S. Vaidya h/f Mrs. Gauri Venkatraman, learned counsel for applicant-appellant and Shri G.K. Bhusari, learned counsel for respondent nos.1 and 2. Perused judgment and award dated 7.10.2015 passed by the tribunal in Motor Accident Claim Petition No.151/2009.

Appellant raised plea of contributory negligence in its defence. The submission is that at the time of accident, deceased and two other persons were riding on motorcycle and the deceased has also contributed to the occurrence of accident. From the petition, it is apparent that the claimants have not disputed that at the relevant time, deceased and two other persons were riding on the motorcycle. It appears that tribunal has not considered this aspect in its judgment and award.

Hence, claimants are permitted to withdraw 50% of the amount deposited by the appellant on furnishing usual undertaking within three weeks to the extent that in case appellant

succeeds on merits, they shall deposit the amount with interest thereon as per the direction of the court.

Civil Application is partly allowed and disposed of.

JUDGE

Gulande