

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4767 OF 2018
IN
FIRST APPEAL NO. 5003 OF 2017

Jyoti Appasaheb Bhadgale and others .. Applicants

versus

National Insurance Company Ltd. And ors. .. Respondents

Mr. Sachin D. Kotkar, Advocate for applicants

Mr. A. B. Kadethankar, Advocate for respondent no. 1

CORAM : SUNIL P. DESHMUKH, J.
DATE : 9th April, 2018

ORDER :

1. Heard learned counsel for the parties.
2. Learned counsel for the applicants submits that the family of the applicants is in dire need of compensation amount which is lying deposited in this court. Accident had taken place in 2014 and since then beyond no fault liability amount claimants have not received any further amount. Economic condition of the applicants' family is not sound and as such they are in need of amount for day to day living.

3. Learned counsel for respondent -insurance company – appellant in first appeal, submits that the family of the applicants possesses agricultural lands and the amount granted is excessive and would not be liable to be paid by insurer to the applicants. He submits, the amounts awarded under non pecuniary heads is on higher side having regard to decision in the case of National Insurance Company Limited v/s Pranay Sethi and others, reported in *MANU/SC/1366/2017 : 2017 (3) SCALE 12*, particularly in operative order under paragraph no. 61, specifically clause (viii) thereof.

4. However, having regard to that the accident has taken place in 2014 and there is loss of earning member in the family and the need of the family not having been seriously disputed, it would be expedient to allow the application.

5. As such, applicants are allowed to withdraw fifty per cent of the amount deposited in this court on furnishing undertaking to the satisfaction of the Registrar (Judicial) of this Court that if decision in the first appeal is adverse to the interest of the applicants, they shall pay back / deposit the amount being withdrawn under this order in this court within a period of three months from the date of decision in the appeal. Undertaking to be filed within a period of three weeks from today.

6. Apportionment of amount withdrawn shall be in the same proportions, for the same purpose and in the same manner as under the award. Interest over the fixed deposit receipts may be withdrawn by respective claimants and for minors by their mother. Copies of fixed deposit receipts be furnished to this court.

7. Civil application is accordingly allowed and is disposed of.

SUNIL P. DESHMUKH,
JUDGE

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