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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL No. 779 OF 2015
WITH
CIVIL APPLICATION No. 3277 OF 2014
WITH
CIVIL APPLICATION No. 3319 OF 2016

New India Assurance Co. Ltd. ... Appellant
Vs.
Suhas Sahadu Ukirde & Ors. ... Respondents

Mr. S. M. Dange, for the Appellant, and for the Applicant in
CAF. 3277/2014, and for the Respondent in CAF. 3319/2016.

Mr. Rohit S. Gangawane, for Respondent Nos. 1 & 2. in APPEAL
No. 779/2015, & CAF. 3277/2014 and for Applicant in CAF.
3319/2016.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 4, 2018

PC :-

FIRST APPEAL No. 779 OF 2015

1. After hearing the learned counsel for the Appellant,
present appeal is admitted only on the point of future
prospectus, since the learned counsel for the Appellant fairly
pointed out footnote that appeal is confined only to

Rs.4,60,000/- and rest part of the impugned judgment is not under challenge. Learned counsel Mr. R. S. Gangawane waives notice for Respondent Nos. 1 and 2.

CIVIL APPLICATION No. 3319 OF 2016

2. This is an application filed for withdrawal of the amount by the original claimants. Heard the learned counsel appearing for the respective parties. The insurance company has filed appeal challenging the judgment and award dated 24.3.2014 passed by the learned Motor Accident Claims Tribunal, Pune in MACP No. 349 of 2013. By the said impugned judgment and award, opponents in the claim petition were directed to pay jointly and severally compensation of Rs.14,93,400/- to the claimants.

3. At the time of admission of the appeal, this Court has admitted the appeal filed by the insurance company only in respect of future prospectus and insurance company has confined its challenge only to Rs.4,60,000/-. Thus, insofar as rest of the amount is concerned, there cannot be any

impediment for withdrawal of the amount by the claimants. However, looking to the age of the claimants, I am of the view that presently the entire undisputed amount need not be released in their favour and out of the undisputed amount, Rs.7,50,000/- can be allowed to be withdrawn by them, so as to secure their future. Consequently, I pass following order:

- (i) Applicants are entitled to withdraw Rs. 7,50,000/- out of the amount deposited by the insurance company with the learned Tribunal at Pune.
- (ii) Learned Tribunal shall invest the remaining amount in any nationalised bank, initially for a period of three years and shall continue to do so as and when occasion arises in future, so as to save loss of interest of the Applicants;
- (iii) The Applicants are at liberty to file application for withdrawal of the undisputed amount after a period of one year, if they are able to demonstrate hard pressing necessity for further withdrawal;

(iii) Application is partly allowed in the aforesaid terms.

Civil Application No. 3277 of 2014

4. This is an application for stay filed by the insurance company to the execution of the impugned judgment and award dated 24.3.2014. Heard learned counsel appearing for the respective parties. Today the Court has admitted the appeal on the point, indicated in the order. Today, the Court has allowed the Applicants to withdraw the amount, as indicated in the order. In that view of the matter, application is made absolute in terms of prayer clause (a). Civil Application No. 3277 of 2014 is accordingly disposed of.

Sd/-
[V. M. DESHPANDE, J.]

Vinayak Halemath