

Sarnobat

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 36 OF 2012.
IN
FIRST APPEAL NO. 1126 OF 2016**

Smt. Shobhana Mukundrao Wagh & Anr. ... Applicants.

IN THE MATTER BETWEEN :

The Divisional Manager,
National Insurance Company Ltd. ... Appellant.

Vs.

Smt. Shobhana Mukundrao Wagh & Ors. ... Respondents.

Mr. Sanjay Krishnan I/by Harshada M. Rane, for the Appellant in FA-1126/2016 and for Applicant in CAF No. 2618/2016 and Respondent in CAF No. 36/2017.

Mr. Pritesh K. Bohade, for the Respondent No. 1 to 3 in FA No. 1126/2016 and CAF No. 2618/2018 and Applicant in CAF No. 36/2017.

CORAM : V. M. DESHPANDE, J.

DATE : 27th JUNE, 2018.

P. C. :

1. This is an application for withdrawal of the amount deposited by the Insurance Company. This application is moved by the original claimants. The application is filed by widow and son of deceased Mukund Wagh.

2. The learned counsel for the Insurance Company has submitted that the applicant No. 1 Smt. Shobhana Mukundrao Wagh, the widow is the owner of the Tempo and therefore, presently she is not entitled to receive any amount.

3. At this stage the Court does not want to make any comments on the application filed by Smt. Shobhana M. Wagh. However, the fact remains that applicant No. 2 is the son of the deceased and he is entitled to receive amount deposited by Insurance Company. Especially when the Insurance Company has obtained the stay from this Court by making a statement that they will deposit the entire amount in this Court. The Insurance Company has deposited the entire amount, out of said amount applicant Pravin Mukundrao Wagh will be entitled to receive presently Rs.5,00,000/-. I pass the following order;

ORDER

- I) The application is allowed in part.
- II) Applicant No. 2 Pravin Mukundrao Wagh will be entitled to receive Rs.5,00,000/- from the amount deposited by Insurance Company by giving an undertaking before the Court that, in case appeal filed by the Insurance Company allowed by this Court in that event, he will refund the amount within Six months from the date of the judgment of this Court.

[V. M. DESHPANDE,J.]