

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

CIVIL APPLICATION (CAF) NO.1154 OF 2018

IN

FIRST APPEAL ST. NO. 127 OF 2007

(B.M. NEW INDIA ASSURANCE CO. LTD...VS.. JAYSHREE ARUN KUMBHARE & ANR.)

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

Court's or Judge's orders

Shri S.N.Dhanagare, Advocate for Appellant.
Ms Monali Pathade, Advocate for Respondent No.1/Applicant.

CORAM : Z.A.HAQ, J.

DATED : APRIL 03, 2018.

The respondent No.1 had filed claim petition before Motor Accident Claims Tribunal claiming to be the widow of deceased Arun Kumbhare, who died in accident. Another claim petition (MACP No.66/1995) was filed by brother and sister of deceased Arun Kumbhare. Both these claim petitions were decided by the Tribunal. The Tribunal upheld the claim of the respondent No.1-Jayshree for compensation, however, recorded that Jayshree would be entitled to receive the amount of compensation only if she obtains Succession Certificate. The Tribunal further recorded that if Jayshree fails to obtain Succession Certificate the amount deposited by the Insurance Company be refunded to it.

Now, the respondent No.1-Jayshree has filed this application praying that the amount deposited by the Insurance Company be given to her. Along with civil application, copy of the judgment passed in Regular Civil Suit No.905 of 2009 filed by Jayshree is placed on record.

By the judgment given in Regular Civil Suit No. 905 of 2009, the trial Court has granted decree in favour of Jayashree upholding her claim for receiving pension and other service benefits after death of Arun Kumbhare. The trial Court has recorded that Jayashree is entitled to receive pension and other service benefits being legally wedded wife of Arun Kumbhare. The advocate for the respondent No.1- Jayashree has submitted that in view of the findings recorded by the trial Court in the judgment given in Regular Civil Suit No. 905 of 2009 Jayashree is entitled to withdraw the amount deposited by the Insurance Company.

The submission made on behalf of the respondent No.1-Jayashree has to be accepted.

The Registry is directed to give amount deposited by the appellant/ Insurance Company along with interest on it, to the respondent No.1-Jayashree.

The civil application is **allowed** accordingly. No costs.

JUDGE