

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

CIVIL APPLICATION NO.2885/2018 IN FIRST APPEAL NO.416/2004 (D)

Smt. Takhubai wd/o Mannubhai Jograna and ors. .vs. Premkumar
Ramawatar Sharma and ors.

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

Court's or Judge's orders.

Ms Akshaya Kshirsagar, Advocate for appellant no.1.
Mr. D. P. Dapurkar, Advocate for respondent no.1-
applicant no.1.

CORAM : V.M. DESHPANDE, J.

DATED : OCTOBER 1, 2018

This Court (Coram: R. K. Deshpande, J.) on 05.04.2016 allowed First Appeal No.416/2004, in which it is held that the claimants are entitled for enhanced compensation to the tune of Rs.8,11,600/-.

The present application is filed by Smt. Takhubai wd/o Mannubhai Jograna and others for permission to withdraw the enhanced amount of compensation awarded in First Appeal No.416/2004 deposited by New India Assurance Company. As per the application, the Insurance Company has deposited Rs.16,68,359/- in this Court.

Applicant nos.1 to 9 in the present application were original claimants before the tribunal below. They were also parties to the appeal as appellants. In the present application, it is stated that applicant no.9-original claimant no.9-Smt. Jadibai wd/o Khoda Jograna expired due to her old age. The death certificate is also

placed on record. It is also stated in the application that applicant nos.1 to 8 are in her legal representatives.

The present application is filed only on behalf of applicant no.1-Takhubai. The application is duly signed by her before Notary at Amravati. From the affidavit, it is clear that she cannot write and therefore her thumb impression is obtained.

In the application, it is stated that applicant nos.2 to 8 are her married daughters and sons. It is also stated that they are not residing at village Sawanga Vithoba, Tahsil Chandur Railway, District Amravati. They reside at different places. She, therefore, filed Power of Attorney, notarized before the Notary at Amravati on 26.03.2018 and under the said power of attorney, she claims to withdraw the entire amount for and on behalf of the remaining claimants.

The documents which are filed along with this application show that claimant nos 4-Suresh Manubhai Jograna is resident of Rui Panjri Road, near Hanuman Mandir, Banwadi Rui, Nagpur. The power of attorney further shows another address of applicant-Takhubai as Banwadi, District Nagpur.

Since applicant no.1 alone wishes to withdraw the entire amount and since applicant no.1 is not before the Court, in the present case, in my view, Registry of this Court shall transfer the entire amount deposited by the Insurance Company to the office of Motor Accident Claims Tribunal, Amravati within a

period of 15 days from today. After the amount is so transferred, the Motor Accident Claims Tribunal, Amravati shall, after having satisfied itself about the claim put forth by applicant no.1 alone for and on behalf of other applicants, permit applicant no.1-Takhubai to withdraw the amount and, in any case, the learned Member, Motor Accident Claims Tribunal, Amravati shall ensure that cheque is issued only in the name of applicant and shall ensure that the cheque is deposited in her bank account only. Applicant no.1 can appear before the tribunal *suo motu* for further exercise.

With this, the application is disposed of.

JUDGE

kahale