

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

CIVIL APPLICATION NO.2498/2018 IN F.A.ST.NO.12690/2018
The New India Assurance Co. Ltd. .vs. Sau. Rukhmabai wd/o Shrihari
Thakre and Ors.

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

Court's or Judge's orders.

Mr. B. P. Bhatt, Advocate for applicant.
Mr. V. D. Awchat, Advocate for non applicant nos.1 to 3.

CORAM : V.M. DESHPANDE, J.
DATED : OCTOBER 12, 2018

This is an application for condonation of delay. The appeal is filed by the Insurance company. There is a delay of 170 days. Pursuant to the notices, original claimants are appearing through their counsel Mr. Awchat. For the decision of this application, presence of other respondents is not necessary. Learned counsel for the claimants fairly submits that there is no objection for allowing the present application.

In that view of the matter, the application is allowed. Delay of 170 days is condoned. Office is directed to register the appeal.

The application is disposed of.

First Appeal Stamp No.12690/2018

Heard.

Admit. Call for the record and proceedings.

Mr. Awchat, Advocate waives notice for respondent nos. 1 to 3.

Civil Application No.1844/2018

This is an application for withdrawal of the amount, filed by respondent nos. 1 to 3.

Heard Mr. Awchat, learned counsel for respondent nos. 1 to 3 and Mr. Bhatt, learned counsel for the Insurance Company.

Pursuant to the earlier order, the Insurance company has deposited the entire decretal amount before this Court.

Respondent no.1-Rukhmabai is widow of Shrihari Thakre, who lost his life in vehicular accident, whereas respondent nos. 2 and 3 are his sons. They are 25 years old and their occupation is student. However, there is nothing in the application as to which education they are taking. It is also not stated in the application that they are not bodily able to earn their livelihood.

In that view of the matter, I pass the following order.

ORDER

- (i) The application is allowed in part.
- (ii) Application of respondent no.1-Sau. Rukhmabai is allowed. Application of respondent nos. 2 and 3 is rejected.
- (iii) Respondent no.1-Rukhmabai is permitted to withdraw 25% of the amount deposited by the Insurance Company along with interest accrued thereon.

(iii) Remaining amount shall be invested in any nationalised bank initially for a period of 3 years and said exercise shall be continued as and when occasion arises.

The application is disposed of.

Civil Application No. 2499/2018

This is an application for stay. Pursuant to the earlier order, the appellant has deposited the entire amount under the award. Today, this Court has disposed civil application filed by the claimants and permitted only respondent no.1 to withdraw 25% amount deposited by the appellant.

In that view of the matter, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) There shall be stay to the judgment and award passed by learned Member, Motor Accident Claims Tribunal, Pandharkawda dated 18.09.2017, in Motor Accident Claims Petition No. 34/2009 in respect of 75% amount deposited by the appellant.

With this, the application is allowed and disposed of.

JUDGE