

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

CIVIL APPLICATION NO.2038/2018 IN F.A.ST.NO.14013/2018
ICICI Lombard General Insurance Co. Ltd. Nagpur .vs. Smt. Seema wd/o
Shankar Nirgude 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. R. D. Bhuihar, Advocate for applicant.
Mr.V.D. Awchat, Advocate for non applicant nos.1 and 2.
Mr.M.R.Johrapurkar, Advocate for non applicant nos.4 and 5.

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 318 days. Notices on this application were issued. Pursuant to the notice, original claimants-non applicant nos.1 and 2 have appeared. They are represented through their counsel Mr. Awchat. Non applicant nos 4 and 5 are represented through their counsel Mr. Johrapurkar. Learned counsel for the non applicants fairly submit that there is no objection for allowing the present application.

In that view of the matter, the application is allowed. Delay of 318 days is condoned. Office is directed to register the appeal.

The application is disposed of.

First Appeal Stamp No.14013/2018

Heard.

Admit. Call for the record and proceedings.

Mr. Awchat, Advocate waives notice for respondent nos. 1 and 2 and Mr. Johrapurkar, Advocate waives notice for respondent nos. 4 and 5.

Civil Application No.1824/2018

This is an application for withdrawal of the amount, filed by respondent nos. 1 and 2.

Heard Mr. Awchat, learned counsel for respondent nos. 1 and 2, Mr. Bhuibhar, learned counsel for the Insurance Company and Mr. Johrapurkar, learned counsel for respondent nos. 3 and 4. Nobody appears for respondent no.5.

In a vehicular accident, husband of respondent no.1 and father of respondent no.2 has lost his life. At the time of his death, as per the impugned judgment, his age was 35 years. He was cook as well as driver. The Court below has considered monthly income of the deceased as Rs.15,000/- and awarded amount of Rs.9,87,500/- in favour of respondent nos.1 and 2. It is to be noted that respondent no.2 is only aged about 7 years. Therefore, his future will have to be secured.

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

ORDER

- (i) The application is allowed in part.
- (ii) Respondent nos. 1 and 2 are permitted to withdraw 50% 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 the said exercise shall be continued as and when occasion arises.

(iv) Respondent no.1 will be entitled to withdraw the interest on the remaining amount, twice in a year for maintaining herself as well as for maintaining her minor son.

The application is disposed of.

JUDGE

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