

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

CAF NO.2616/2018 IN FA ST.NO.26271/2017
The United India Insurance Company Ltd., thr. its Branch Manager Khamgaon,
District Buldana, thr. its Regional Office at Nagpur
..VS..
Smt. Nirmala Uddhao Dhande and ors

Smt. Nirmala Uddhao Dhande and ors : Applicants/Respondent Nos.1 to 6.

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

Court's or Judge's Order

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Shri S.P. Pawar, Counsel for applicants/respondent Nos.1 to 6.
Shri P.G. Pathak, Counsel for the appellant.

CORAM : V.M. DESHPANDE, J.
DATED : SEPTEMBER 5, 2018.

1. This is an application moved by applicants/respondents Nos.1 to 6-original claimants for withdrawal of the amount deposited by insurance company.
2. I have heard learned counsel Shri S.P. Pawar for the claimants and learned counsel Shri P.G. Pathak for the insurance company.
3. After hearing learned counsel for the parties and after having perused the judgment of the Court below, it is crystal clear that the compensation granted by learned Member, MACT, Buldana is not in consonance with the authoritative pronouncement of the Honourable Apex Court in the case of National Insurance Company Limited vs. Pranay Sethi and others, reported at (2017) 16 SCC 680. Further, deduction of the income tax is also not considered by

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the Tribunal. Further there is a question of contributory negligence.

4. The appeal filed by the insurance company is already admitted on 30.7.2018 and the Stay is already operating in favour of the appellant. In that view of the matter, I pass following order:

ORDER

- i) The civil application is partly allowed.
- ii) The original/claimants will be entitled to withdraw 50% of the amount deposited by the insurance company before this Court. On they submitting an undertaking before this Court that in the event the appeal filed by the insurance company is allowed, they will refund the amount so withdrawn by them along with interest that will be determined by this Court at the time of final hearing of the appeal.
- iii) With this, the civil application is disposed of accordingly.

JUDGE

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