

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

CAF NO.2999/2018 IN FA NO.1037/2018
Bharti Axa General Insurance Company Ltd., thr. its Regional Office, Nagpur,
thr. its Manager (Legal) Shri Idris Khanwala
..VS..
Rajkanya wd/o Suresh Bodade and ors

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

Court's or Judge's Order

.....
Shri S.D. Chopade, Counsel for Applicants/Respondent Nos.1
& 2.
Shri R.D. Bhuibhar, Counsel for the Appellant.
Shri V.B. Bhise, Counsel for Respondent No.3.

CORAM : V.M. DESHPANDE, J.
DATED : OCTOBER 8, 2018.

1. This is an application moved by applicants/respondent Nos.1 and 2/original claimants for withdrawal of amount.

2. I have heard learned counsel Shri S.D. Chopade for applicants/respondent Nos.1 and 2, learned counsel Shri R.D. Bhuibhar for appellant-insurance company, and learned counsel Shri V.B. Bhise for respondent No.3. Though served, respondent No.4 chose to remain absent when the matter is taken up for consideration.

3. The appeal is filed by the insurance company challenging judgment and award dated 22.8.2017 passed by learned Member, Motor Accident Claims Tribunal, Akola in

MACP No.147/2012 granting compensation of Rs.31,00,000/- inclusive of "No Fault Liability" along with interest at the rate of 9% per annum. The appeal filed by the insurance company is already admitted by this Court. In pursuance to the order passed on earlier occasion by this Court, the insurance company deposited Rs.42,64,373/-. The present application is for withdrawal of the said amount.

4. From the cause title of the present appeal itself, it is clear that respondent No.2-Sudarshan is aged about 22 years and his occupation is shown as service. Even, the impugned judgment and award shows that at the time of filing of the claim petition his age was shown as 22 years and therefore by no stretch of imagination it could be said that he was dependent on Suresh who died in a vehicular accident.

5. After hearing learned counsel for the parties, this Court passes following order:

ORDER

- (i) The civil application is partly allowed.
- (ii) The application filed by applicant/respondent No.2 is hereby rejected as he is not a dependent.
- (iii) The application filed by applicant/respondent No.1 is hereby partly allowed.
- (iv) Applicant/respondent No.1 alone will be entitled to withdraw Rs.20.00 lacs out of the total amount deposited by the appellant.

(v) Liberty is granted applicant/respondent No.1 to move an appropriate application for withdrawal of further amount after a period of two years, if the present appeal is not taken up for its final hearing.

(vi) With this, the civil applications stands partly allowed and disposed of accordingly.

JUDGE

!! BRW !!

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