

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

CIVIL APPLICATION (CAF) NO. 3621/2018 IN
FIRST APPEAL STAMP NO. 12734/2018

IFFCO-TOKIO General Insurance Co. Ltd.,

Vs.

Smt. Anita Dnyaneshwar Rathod and others.

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

Court's or Judge's orders.

Shri D.N.Kukday, Advocate for the appellant.

Shri M.R. Joharapurkar, Advocate for the respondent Nos.1 to 5.

CORAM: ARUN D. UPADHYE, J.

DATE: 04-12-2018.

Heard learned counsel for the parties.

The respondents Nos. 1 to 5 have filed this application for withdrawal of the amount.

Perused the impugned judgment and award. It appears that the compensation of Rs. 26,06,500/- with accrued interest at the rate of 7% per annum was granted to the claimants. The appellant/Insurance Company has deposited the entire compensation of Rs. 37,90,947/-.

The learned counsel for the appellant/Insurance Company has submitted that two motor vehicles are involved in the accident and there is a contributory negligence, and therefore at least 50% amount deposited may be permitted to be withdrawn by the respondent nos. 1 to 5 on furnishing solvent security.

The learned counsel for the respondent Nos. 1 to 5 has submitted that the learned Tribunal, after considering the evidence, has granted compensation, and therefore may be granted to withdraw the amount on furnishing usual

undertaking.

Considering the submission of both the sides and after perusal of the impugned judgment the respondent Nos. 1 to 5 could be permitted to withdraw the 50% amount by furnishing usual undertaking on satisfaction of the Registrar (Judicial) of this Court.

During the course of argument, it is submitted that the respondent Nos. 3 and 4 are all major. The learned counsel for the respondents also submitted that the amount be given to the respondent No.1, in the name of respondent No.1 on behalf of respondents. On filing affidavit to that effect before the Registrar (Judicial), the said request could be granted.

Hence, I pass following order.

ORDER

[i] The application is partly allowed.

[ii] The respondent nos. 1 to 5 are permitted to withdraw the 50% amount on furnishing usual undertaking before Registrar (Judicial) and affidavit to that effect be filed on behalf of the respondent Nos.2 to 5. On furnishing such affidavit, the amount be disbursed in the name of respondent No.1 alone.

JUDGE