

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1167 OF 2019
WITH
CIVIL APPLICATION NO.4215 OF 2018
IN
FIRST APPEAL NO.1220 OF 2018
WITH
FIRST APPEAL NO.1220 OF 2018**

Smt. Nanda Nitin Patil @ Dawari and Ors.Applicants

In the matter between

Reliance General Insurance Co. Ltd. ...Appellants

V/s.

Smt. Nanda Nitin Patil @ Dawari and Ors.Respondents

...

Mr. Rahul Mehta I/b. M/s. KMC Legal Venture for the Appellant in FA/1220/2018, for the Applicant in CAF/4215/2018 and for the Respondents in CAF/1167/2019.

Mr. T.J. Mendon I/b. Mr. S.G. Thorat for the Respondent Nos.1 to 4 in FA/1220/2018 and for the Applicant in CAF/1167/2019.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 06th AUGUST, 2019.

P.C.:-

ORDER IN CIVIL APPLICATION NO.4215 OF 2018:-

The learned counsel for the Applicant-Insurance Company states that the Insurance Company has deposited the entire

compensation as per the impugned judgment and order before the Claims Tribunal, Thane. Said statement is not controverted by the learned counsel for the Respondent Nos.1 to 4.

2. In the light of the said statement, execution and implementation of the impugned judgment and award is stayed till the disposal of the Appeal.

3. The Civil Application stands disposed of.

ORDER IN CIVIL APPLICATION NO.1167 OF 2019:-

4. The Applicants, who are the original claimants have sought withdrawal of compensation awarded by the Claims Tribunal, Kolhapur, vide judgment dated 2nd April, 2018 in M.A.C.P. No.170 of 2014. By the impugned judgment and award, the Claims Tribunal has awarded compensation of Rs.6,70,000/- with interest @ 9% per annum from the date of the petition till final realization.

5. The Applicant No.1 is the widow, Applicant Nos.2 and 3 are children and the Applicant No.4 is the mother of the deceased-Nitin Navnath Patil, who expired as a result of the injury sustained in a

motor vehicular accident on 21st January, 2014. The Applicants have stated that the deceased was the only earning member of the family. They have stated that they have no other source of income and were totally dependent on the income of the deceased. The Applicants have further stated that they are in financial difficulties and require money to meet their day to day expenses.

6. The Applicant No.3 is still a minor and hence I am not inclined to disburse the compensation awarded in her favour. Considering the reasons stated in the application and the grounds raised in the appeal memo, a sum of Rs.95,000/- with proportionate interest is ordered to be paid to the Applicant Nos.1 and 2 each and compensation of Rs.50,000/- with proportionate interest be paid to the Applicant No.4. Suffice it to say that withdrawal of the compensation is subject to final outcome of the appeal. The Applicant Nos.1, 2 and 4 (original claimants) shall give an undertaking that they shall refund the compensation alongwith interest in the event it is held that the Respondent-Insurance Company is not liable to indemnify the insured.

7. The Civil Application stands disposed of.

ORDER IN THE FIRST APPEAL NO.1220 OF 2018

8. The learned counsel for the Appellants seeks leave to file compilation of documents. Leave is granted. To be filed in the registry before the next date with copy to the other side. In view of the order dated 3rd December, 2018, the Appeal be listed for final hearing on **22/8/2019** (on supplementary board).

(SMT. ANUJA PRABHUDESSAI, J.)