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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 2776 OF 2016****IN****FIRST APPEAL NO. 1015 OF 2015**

The New India Assurance Co. Ltd.

.....Applicant

V/s.

Smt. Sushila Haushila Sinha and others

.....Respondents

Mr. Sudhakar Pandaram i/b Mr. Milind More for the appellant
None for the appellant

CORAM : K. K. TATED, J.**DATE : MARCH 15, 2019.****P.C.**

Heard the learned counsel for the applicant. Though the respondents are duly served, no one appeared on behalf of them when the matter is called out.

2 In the present proceedings, appellant filed First Appeal no. 1015 of 20166 challenging the Judgment and Award dated

22/04/2015 passed by Motor Accident Claims Tribunal at Thane, in Motor Accident Claim Petition no. 66/2008 holding that respondent-claimants are entitled for the sum of Rs. 11,80,000/- by way of compensation with interest at the rate of 7.5% per annum. Thereafter, present First Appeal was on board before this Court on 19/11/2015. At that time, after hearing both sides, this Court finally disposed of the First Appeal with operative order which reads thus:

“10. Hence, the Appeal is partly allowed.

“11. One-half amount is to be deducted towards the personal expenditure and the compensation awarded under other heads is not disturbed. The calculation of the compensation is as follows:

Sr.	Particulars	Amount
1.	Funeral Exp.	10,000/-
2.	Loss of Estate	50,000/-
3.	Loss of affection	1,00,000/-
4.	Loss of income	7,65,000/-
	Total	9,25,000/-

12. The applicants are allowed to withdraw the entire amount by producing their proof of identity.

13. In view of the above, First Appeal and the Civil Application stands disposed of.”

3 The learned counsel for the applicant submits that during pendency of the present First Appeal, they deposited sum of Rs. 18,55,152/- in tribunal. He submits that in view of final order passed by this Court in First Appeal No. 1015 of 2015 dated 19/11/2015, applicant is entitled to refund of the amount.

4 Hence, following order:

(I) Motor Accident Claims Tribunal at Thane is directed to calculate the exact amount due and payable to the claimant as per final order dated 19/11/2015 passed by this Court in First Appeal No. 1015 of 2015 with Civil Application No. 3009 of 2015 and refund the

excess amount, if any to the Insurance Company without any surety.

(II) Civil Application stands disposed of accordingly.

(III) Parties to act upon authenticated copy of this order.

[K. K. TATED, J.]