

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

C.A.F. NO.2825/2019 AND 2708/2019

IN

FIRST APPEAL NO.986/2018

The Oriental Insurance Co. Ltd., through Manager at Regional office, Nagpur

..Vs..

Mangesh S/o Wasudevrao Bhute and others

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

Court's or Judge's orders

Ms Anita Mategaonkar, Advocate for the appellant.
Shri Raju Kadu, Advocate for respondent No.1.
Shri Deepak Khushlani, Advocate for respondent Nos.4 to 6.

CORAM : Z.A. HAQ, J.

DATED : 29.7.2019.

Heard.

2] The appellant / insurance company has filed Civil Application No.2825/2019 stating that excess amount of Rs.1,71,258/- is deposited by it. The appellant / insurance company seeks permission to withdraw the amount of Rs.1,71,258/-.

3] Civil Application No.2708/2019 is filed by the respondent No.4 praying that the respondent Nos.4 to 6 be permitted to withdraw the amount of compensation deposited by the insurance company. The respondent No.4 has filed an affidavit sworn on 26th July, 2019 praying that she be permitted to withdraw her 1/3rd share i.e. Rs.4,27,529/- from the total amount of compensation deposited by the insurance company. Similar affidavit is filed by the respondent No.5. The

respondent Nos.4 and 5 have stated that the balance amount can be continued in fixed deposit and the respondent No.6 - Aayush S/o Manohar Borkhade will be entitled for that amount alongwith interest on it, and the respondent Nos.4 and 5 will not make any claim for that amount. It is stated that the respondent Nos.4 and 5 require the amount of their respective share for solemnization of marriage of respondent No.5.

4] Considering the above facts, following order is passed:

(i) It is directed that from the amount deposited by the insurance company, Rs.1,71,258/- be given to the insurance company. Civil Application No.2825/2019 is **allowed** accordingly. No costs.

(ii) Out of balance amount lying in deposit with the Tribunal, 1/3rd amount be given to the respondent No.4 - Sunanda Wd/o Manohar Borkhade and 1/3rd amount be given to respondent No.5 - Arti D/o Manohar Borkhade. Civil Application No.2708/2019 is **allowed** accordingly. No costs.

(iii) The balance amount be continued in fixed deposit in nationalized bank until the Motor Accident Claims Tribunal passes appropriate orders regarding its disbursement. The Tribunal shall pass appropriate orders regarding disbursement of balance amount after respondent No.6 - Aayush S/o Manohar Borkhade becomes major. While passing the order, Tribunal shall take into consideration the fact that the respondent

Nos.4 and 5 are permitted to withdraw the amount of their respective share and will not have any claim in the balance amount and it has to go to respondent No.6 - Aayush Manohar Borkhade.

5] CIVIL APPLICATION NOS.2706/2019 & 2707/2019

In view of the above orders, these applications do not survive and are **disposed** accordingly. No costs.

JUDGE