

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

CIVIL APPLICATION [F] NO. 3908/2019
IN FIRST APPEAL NO. 1279/2018.

Reliance General Insurance Co. Ltd., Nagpur.-**VERSUS**-Sadashiv Kacharu Dhage and others.

CIVIL APPLICATION [F] NO. 3905/2019
IN FIRST APPEAL NO. 111/2019.

National Insurance Co. Ltd.-**VERSUS**- Sadashiv Kacharu Dhage and others.

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

Court's or Judge's Orders

S/Shri D.N. Kukdey & C.A.Anthony, Advocates for
Appellants.

Shri S.P. Pawar, Advocate for applicant/Respondent No.3.

CORAM : VINAY JOSHI, J.

DATE : 05.11.2019.

Heard.

2. Initially three claimants have approached the Claims Tribunal for grant of compensation in terms of Section 166 of the Motor Vehicles Act. The Tribunal has partially allowed the claim and granted total compensation of Rs. 8,57,000/-, inclusive of claim towards no fault liability, and directed respondents, to pay the awarded amount in proportion, as specified in paragraph no.4 of the final

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order. The said judgment and award was challenged by both the insurance companies by way of separate appeals, and it is informed that both the appeals were heard on merits and came to be dismissed by this Court vide common judgment and order dated 03.10.2019, meaning thereby the award passed by the Claims Tribunal was confirmed.

3. It is informed by the learned counsel for the appellants that they have recommended to challenge the orders passed in First Appeals before the Hon'ble Supreme Court, however, they are not aware whether appeals are filed. Therefore, it is apparent that as on today there is no record to show that either any appeal is filed or stay is granted.

4. In the circumstances, there is no hurdle in releasing the amount to the applicant/claimant to which he is entitled. However, it needs to be recorded that a claim has occasioned on account of death of a lady, on which a claim was preferred by her husband and two sons, who are original claimants 1 to 3. During pendency of the proceedings before the Claims Tribunal, one of the son namely Kishore expired issueless. Having regard to the said fact, the Tribunal while

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apportioning the amount of compensation, has specifically carved out major share of compensation in favour of original claimant no.1/husband and the remaining share in favour of living son i.e. the original claimant no.3/applicant Pandurang. It appears that there happens to be a typographical mistake in mentioning that petitioner no.2 son is entitled for Rs. 3,07,400/-, since petitioner no.2 is already dead.

5. By way of present applications, the applicant / respondent no.3 Pandurang has prayed for release of 50% of the amount of compensation awarded along with interest. However, the Tribunal has specifically apportioned the amount in favour of father and son with different proportion. At present, original petitioner no.1 father is not coming forward to claim the amount for the reason that according to the applicant, he is not heard of for several years.

6. Be that as it may, the applicant/ respondent no.3 - Pandurang is entitled to the amount which was particularly assigned to his share by the Tribunal. However, while disbursing the said amount, I feel it appropriate to obtain an undertaking to secure the interest of the appellants, in case any appeal is

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filed and judgment is reversed. In view of that following order is passed.

- (i) Civil Applications are allowed.
- (ii) Applicant/Respondent no.3 Pandurang is permitted to withdraw the amount allotted to his share as per the award passed by the Tribunal, along with interest accrued, if any. However, said amount be disbursed to him after obtaining usual undertaking.

JUDGE

Rgd.