

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

CIVIL APPLICATION (O) No.2042 OF 2018
IN
FIRST APPEAL No.1559 OF 2019

Reliance Insurance Company Ltd.
VS.
Sindhu wd/o Wasudeo Niwal and others

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

Court's or Judge's

Shri. H. N. Verma, counsel for the appellant Insurance
Company.
Shri. P. K. Tapase, counsel for respondents No.1 to 3.

CORAM : Manish Pitale J

DATED : 25.09.2019

This is an application filed on behalf of respondents No.1 to 3 (original claimants) seeking permission to withdraw the amount of compensation deposited by the appellant insurance company in this Court.

2. The main ground raised in the appeal on behalf of the appellant insurance company is, that the Tribunal failed to appreciate the F.I.R. pertaining to the incident registered in the present case against respondent No.4, wherein it was specifically recorded that an offence under Section 185 of the Motor Vehicles Act was being registered. The complaint, in pursuance of which

the F.I.R. was registered had specifically recorded that the respondent No.4 was under the influence of liquor when the incident took place. The aforesaid main ground of challenge in the appeal would indicate that if such contention raised on behalf of the appellant insurance company is accepted, it could be a case of a pay and recover.

3. The learned counsel appearing for the appellant insurance company submits that it could also be a case of complete exoneration of the appellant insurance company and the liability being that of respondent No.4.

4. But looking to the facts and circumstances of the present case and the nature of challenge raised in the accompanying appeal, this Court is of the opinion that respondents No.1 to 3 (original claimants) need not suffer further hardship by deprivation of the amount granted towards compensation by the Tribunal.

5. Hence, this application is allowed and the respondents No.1 to 3 are permitted to withdraw the amount of compensation deposited by the insurance company in this Court on furnishing usual undertaking.

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It is already noted by this Court while

allowing the application for withdrawal of amount filed on behalf of the respondents No. 1 to 3 as to the nature of challenge raised in the appeal. Although respondent No.4 has been served, he has chosen not to appear before this Court.

6. Hence, **Admit.**

7. Call for R & P.

JUDGE

KOLHE