

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

CIVIL APPLICATION (CAO) NO.2277/2019

IN

CIVIL APPLICATION (CAF) NO.2637/2019

IN

FIRST APPEAL ST. NO.14077/2019

The New India Assurance Company Ltd., Akola Tq. And Distt. Akola presently
through Chief Regional Manager, Nagpur

...Versus...

Smt. Chhaya Sunil Sonone and others

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

Court's or Judge's orders

Shri A.W. Paunikar, Counsel for applicant
Ms Divya Joshi, Counsel h/f Shri S.V. Sirpurkar, Counsel for respondent nos.1 to 3/applicants

CORAM : VINAY JOSHI, J.

DATE : 06/12/2019

Heard.

The applicants/original claimants are seeking withdrawal of compensation amount as has been granted by the Tribunal. It was a death claim filed by widow, minor son and father of deceased. The accident is outcome of collision between S.T. bus and truck. The Tribunal on assessment of facts held that due to sole negligence of truck driver accident occurred. The Tribunal has assessed the total compensation to the tune of Rs.31,77,840/-.

The appellant has submitted that it is a case of composite negligence. However, the Tribunal erred in fastening the entire liability on the truck driver, owner and insurer. Moreover, it is submitted that the driver of the truck was holding two licences in contravention to Section 6 of the Motor Vehicles Act and therefore, the insurer is not liable.

Considering the submissions, I have gone through the impugned judgment. The Tribunal has recorded a finding of fact about sole negligence of truck driver. One of the licences appears to be held valid and effective by the Tribunal. The claimant no.2 appears to be still minor. In view of that, I deem it appropriate to permit partial withdrawal.

Applicant/claimant nos.1 and 3 are entitled to receive 75% amount (excluding deposit of Rs.5,00,000/- as ordered by the Tribunal) of their respective share along with accrued interest upon furnishing usual undertaking.

The civil application stands disposed of accordingly. No order as to costs.

JUDGE