

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

Civil Application [CAF] No.1571 of 2020

in

First Appeal No.78 of 2017 (D)

New India Assurance Company Limited

vs.

Smt. Kavita wd/o Chandrakant Chikhalkar & others

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

Court's or Judge's Orders

*Ms. A.R. Sharma, Advocate h/f Shri P.R. Agrawal, Advocate for the
 Applicants-Respondent Nos.1 & 3.
 None for the Appellant.*

CORAM : S.M. MODAK, J.
DATE : 7th JANUARY, 2021.

Heard learned Advocate for the respondent Nos.1 & 3 i.e. original claimant and original non-applicant No.3 respectively.

02] This Court has dismissed the first appeal of the Insurance Company on 13/02/2020. While observing, who are entitled to withdraw the amount, instead of mentioning the original claimant and original non-applicant No.3 i.e. present respondent No.1 and respondent No.3 respectively in paragraph 5, it was observed as, "claimants/respondent Nos.1 to 3 are permitted to withdraw amount". Now they find it difficult to act as per the order.

03] I have seen the title clause of the claim petition as well as title clause of the appeal. Present respondent No.1 was the original claimant and the present respondent No.3 was the original non-applicant No.3. Whereas, the present respondent

No.2-Tarlochansingh was the non-applicant No.1 in the claim petition. He was the owner of the offending vehicle. Hence, he cannot be granted permission to withdraw the amount. Even in the operative part of the order, the Claims Tribunal has upheld the claim of the claimant and non-applicant No.3 therein. So, the mistake is apparent. There is no need to hear the present respondents. Hence, the directions.

04] In paragraph 5 of the order dated 13/02/2020, the following corrections be made.

Instead of "The claimants/ respondent Nos.1 to 3", the following portion be added.

"The original claimant/ present respondent No.1-Smt. Kavita wd/o Chandrakant Chikhalkar and original non-applicant No.3/present respondent No.3-Smt. Malti wd/o Vasantryao Chikhalkar."

Rest of the directions will remain as it is.

JUDGE

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