

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1885 OF 2017
IN
FIRST APPEAL (ST) NO. 12102 OF 2017

The New India Assurances Co Ltd ...Appellants
Versus
Poonam Sachin Awte & Ors ...Respondents

WITH
CIVIL APPLICATION NO. 5 OF 2021
IN
FIRST APPEAL (ST) NO. 12102 OF 2017

Dattatraya R Awte & Anr ...Applicants
In the matter between
The New India Assurances Co Ltd ...Appellants
Versus
Poonam Sachin Awte & Ors ...Respondents

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Mr Himanshu Takke, i/b Milind V More, for the Appellant/Applicant
in CAF/1885/2017.

Mr Tejesh Dande, with Bharat Gadhavi, Vishal Navale, Aniket
Aghade, Trush Shah, Chinmay Deshpande and Yogesh Mali, i/b
Tejesh Dande & Associates, for the Applicant in CAF/5/2021.

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.

DATED: 10th December 2021

PC:-

CIVIL APPLICATION NO.1885 OF 2017:

1. The delay of 74 days is condoned for the reasons set out in Civil Application.

CIVIL APPLICATION NO. 5 OF 2021:

2. The Applicants are original Claimants Nos. 3 and 4, the parents of the deceased. They are entitled to a percentage of the amount awarded and deposited. Mr Dande points out there is a defect in the prayer, in the sense that it seeks a withdrawal of 10%. He clarifies in fairness that the Applicants have already withdrawn 5% and therefore restricts his application for leave to withdraw another 5%.

3. We accept the submission and express our appreciation of Mr Dande's fairness. We make the Civil Application absolute in terms of prayer clause (a) but clarifying that each of the Claimants/Applicants are allowed to withdraw further compensation of 5% from the decretal/award amount as deposited in this Court.

4. The usual Affidavit and undertaking will be required from the Applicants to the effect that if the Appeal is allowed by the insurer is allowed, they will bring back the amount.

5. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)