

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

CIVIL APPLICATION (F) NO.2044 OF 2021
IN
FIRST APPEAL NO.552 OF 2021

[The Oriental Insurance Company Limited **..Vrs..** Anuradha Wd/o.
Ramgiri Giri and Ors.]

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

Court's or Judge's order

Ms. M. Naik, Advocate for Appellant.

CORAM : M. S. SONAK, J.

DATE : 7th DECEMBER, 2021.

This an Application seeking withdrawal of the compensation amount deposited by the Insurance Company in this Court.

2. The learned Counsel for Insurance Company submits that the compensation awarded in this case is quite excessive and in terms of the calculations provided in the appeal memo, compensation not exceeding Rs.8,26,000/- should have been awarded. She submitted that the aspect of contributory negligence has also not been taken into account.

3. The calculations submitted by the Insurance Company in its appeal memo proceed on the basis that the deceased was drawing a monthly income of Rs.5,000/-. The Tribunal has taken a monthly income of the deceased at Rs.15,000/-. The record shows that the deceased was an Assistant Teacher (Shikshan Sevak), who was on probation. Having regard to this fact, the income of Rs.5,000/- as proposed appears to be much

on the lower side.

4. The issue of contributory negligence can of course be borne into at the final hearing of the Appeal but a case is made out permitting some limited withdrawal. This more so because, the first two Respondents i.e. the parents of the deceased are now stated to be 65 years and 67 years respectively. Hearing of the Appeal will take its own time and as has been pointed out in the Application, at least the first two Respondents require the compensation at this stage.

5. Accordingly, leave is granted to Anuradha Giri and Ramgiri Giri i.e. the Respondent Nos.1 and 2 herein to withdraw 50% of the compensation i.e. deposited by the Insurance Company in this Court. The Registry to ascertain the bank details of these two Respondents and remit 50% of the deposited amount into their accounts.

6. This withdrawal shall abide by the final orders in the Appeal.

7. The application seeking withdrawal is disposed of in the aforesaid terms. The Registry to take urgent steps for giving effect to this order.

JUDGE

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