

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.16949 OF 2022  
IN  
FIRST APPEAL (STAMP) NO.16043 OF 2018**

Nandini Nandkumar Postandel and Ors. ...Applicants

In the matter between

The New India Assurance Co. Ltd. ...Appellant

Versus

Nandini Nandkumar Postandel and Ors. ...Respondents

...

Ms S.S. Dwivedi for the Appellant.

Mr. T.J. Mendon for the Applicants/Respondent Nos.1 to 3.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED : 5<sup>th</sup> AUGUST, 2022.**

**P. C. :-**

1. The Applicants, who are original claimants have sought withdrawal of compensation deposited by the Appellant-Insurance Company pursuant to the Judgment and Award dated 30/03/2017 in M.A.C.P. No.491 of 2010. By the impugned judgment, the Claims Tribunal has allowed the petition under Section 166 of the Motor Vehicles Act, 1988 and awarded compensation of Rs.30,77,731/- with interest @7 % p.a. from the date of the application till final realisation.

2. The Applicant No.1 is the widow and Applicant Nos.2 and 3

are the children of deceased Nandkumar, who expired in a motor vehicular accident on 04/11/2010. The Applicants have stated that they do not have sufficient income for their livelihood and that they are in urgent need of money.

3. Learned counsel for the Appellant-Insurance Company has opposed the application on the ground that the Appellant-Insurance Company has challenged the quantum of compensation and also questioned the findings recorded on the issue of negligence.

4. Considering the reasons stated in the application, as well as the grounds in the memo of the appeal, Applicants are allowed to withdraw 50% of the compensation with proportionate interest accrued thereon. Out of the 50% compensation, 25% be paid to Applicant No.1 and balance 25% with proportionate interest accrued thereon be paid to Applicant Nos.2 and 3 equally.

5. Application stands disposed of.

**(SMT. ANUJA PRABHUDESSAI, J.)**