

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

FIRST APPEAL NO.45 OF 2023

The Regional Manager, New India Assurance Co. Ltd., Thane, through the Regional
Manager, Nagpur

Vs.

Gajanan Mahadeorao Khandale and others

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

Court's or Judge's orders

Mr. B. P Bhatt, Advocate for appellant/applicant.

Mr. Kunal P Mirache, Advocate for respondent Nos.1 and 2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 20/03/2023

Civil Application (CAF) No.93/2023

1. By this application, the applicant is seeking stay to the effect, operation and execution of the impugned Judgment and Award dated 08.06.2022 passed by the Member Motor Accident Claims Tribunal, Nagpur in Claim Petition No.281/2016.

2. Learned Advocate Mr. Bhatt for the applicant submitted that already entire amount of compensation along with accrued interest is deposited.

3. In view of the same, the effect, operation and execution of the impugned Judgment and Award passed by the Member Motor Accident Claims Tribunal, Nagpur in Claim Petition No.281/2016, be stayed till

final disposal of the appeal.

4. Civil Application is disposed of.

Civil Application (CAF) No.797/2023

1. By this application, respondent Nos.1 and 2 are seeking permission to withdraw the amount of compensation.

2. As per the contention of the respondent/claimant Nos.1 and 2, their daughter died in an accident who was 17 years of old. Due to the death of the deceased, respondent Nos.1 and 2 are suffering financially and mentally though the award is passed in their favour. They have not received a single penny towards the compensation.

3. The said application is strongly opposed by the learned Advocate Mr. Bhatt for the applicant on the ground that the owner has committed the breach of the terms and conditions of policy and thereafter, the Tribunal has saddled responsibility to pay compensation to the Insurance Company. Hence, Insurance Company preferred this appeal.

4. Heard both the sides.

5. Considered the application as well as objection raised by the learned Advocate Mr. Bhatt, for the applicant. In view of that, it will be appropriate to permit the respondent/claimant Nos.1 and 2 to withdraw 50% of the amount on usual undertaking.

6. In view of that application is allowed.

7. The respondent/claimant Nos.1 and 2 are permitted to withdraw 50 % of the amount on usual undertaking, on due identification and verification.

8. Civil Application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate