

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

CIVIL APPLICATION (F) NO.1222 OF 2023

IN
FIRST APPEAL NO.953 OF 2022

[The New India Assurance Co. Ltd. ..V/s.. Smt. Kamla Wd/o. Ramesh
Kaithwas and Ors.]

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

Court's or Judge's order

Mr M. B. Joshi, Advocate for Appellant.

Mr N. A. Chawhan, Advocate for Respondent Nos.1 to 3.

Mr V. Lohia, Adv. h/f Mr S. V. Sirpurkar, Advocate for Respondent Nos.4 and 5.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 25th APRIL, 2023.

1. Present application is for seeking permission for withdrawal of the amount of compensation deposited by the appellant.

2. It is informed that the appellant has already deposited the entire amount of compensation i.e. Rs.14,98,000/- alongwith interest at the rate of 8% per annum.

3. As per the contention of the respondent Nos.1 to 3, due to the death of the bread earner of the family, they have no source of income and they are starving. They are in dire need of the amount of compensation for their day-to-day needs.

4. The said application is strongly opposed by the learned Advocate Mr M. B. Joshi for the appellant on the ground that statutory defences are raised by the Insurance Company in the present appeal. In fact, the offending vehicle was not at all insured with the appellant, but the learned Tribunal had not considered the same and directed the Insurance Company to

deposit the said amount.

5. Considering the ground raised in the application and objection raised by the appellant, at this stage, it will be appropriate to permit the respondent Nos.1 to 3 to withdraw the 50% amount of compensation alongwith accrued interest. The respondent Nos.1 to 3 to furnish the undertaking to the effect that if appellant succeeds in the appeal and any adverse order is passed against them, then they are under obligation to refund the amount of compensation, as per the direction of this Court.

6. On furnishing the said undertaking, the amount of compensation to the extent of 50% alongwith accrued interest be disbursed to the respondent Nos.1 to 3, on due identification and verification.

7. The civil application is allowed and disposed of accordingly.

JUDGE.