

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

CAF NO.2454/2022 IN FA NO.1543/2019
Reliance General Insurance Co.Ltd., Nagpur

..VS..

Shama wd/o Avinash Tripathi and ors

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

Court's or Judge's Order

.....
Shri V.A.Patait, Counsel for Applicant/R-1.
Shri D.N.Kukday, Counsel for the Appellant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 10/01/2023

1. By this application, respondent No.1 is seeking withdrawal of amount of Rs.25,59,030/-.
2. Learned counsel Shri D.N.Kukday for the appellant – Insurance Company raises an objection for the same on the ground that the appellant - Insurance Company has raised statutory defence that vehicle owner was not holding a valid driving licence. Whereas, as per contention of claimant, though this defence was not raised by the Insurance Company, no evidence is adduced before the Trial Court.
3. The contention of both parties are to be considered while disposing of the appeal.
4. At this stage, considering the reasons mentioned in the application, respondent No.1 can be permitted to withdraw 50% of deposited amount on furnishing an usual undertaking.
5. In view of the above, the application is partly allowed. Respondent No.1 is permitted to withdraw 50% of deposited amount on furnishing an usual undertaking. The amount be disbursed after due verification and identification.

FA NO.1543/2019

1. Heard.

2. **Admit.**
3. Record and proceedings be called for.
4. The appellant to file private paper book within a period of six weeks from today.
5. Place the matter after six weeks.
6. Learned counsel Shri V.A.Patait waives service for respondent No1.
7. This Court is informed that respondent No.2 is dead. Only respondent No.1 is legal heir of respondent No.2.
8. The appellant is permitted to delete name of respondent No.2.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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