

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

**CIVIL APPLICATION NO. 2928 OF 2014
IN
FIRST APPEAL (ST) NO. 1395 OF 2014**

Shobha Tanaji @ Tayappa Hajare & Ors. V/s. Mr. Bablu @ Asif Salim Bagwan & Anr.	... Applicants ... Respondents
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Mr. A.B. Tajane for the applicants.
Mr. Nikhil Mehta I/b KMC Legal for the respondent no.2.

**CORAM : K. K. TATED, J.
DATED : 08/01/2015.**

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by original claimants for withdrawal of amount deposited by the respondent no.2 Insurance Company, pursuant to the order passed by this court in Civil Application no. 192 of 2014.

3 The learned counsel for the applicant submits that the applicant no.1 lost her husband in accident. At that time, he was 38 years old. He submits that at the time of accident the husband of the applicant was running grocery shop and earning Rs.2,50,000/- per year from the said business. He submits that the deceased Tanaji was earning near about Rs.5,00,000/- per year from his agricultural land and he used to pay Sales Tax as well as Income Tax. After the death of the deceased the entire family became helpless. He submits that for their day-to-day

expenses applicants required some money. He further submits that applicant nos. 2 and 3 are taking education. For their education purpose also applicant no.1 required some money. For the necessity to withdraw the amount, the learned Counsel for the applicant relies on paragraph 2. On the basis of these submissions and averments made in above mentioned paragraph, the learned Counsel for the applicants submits that applicants may be allowed to withdraw the amount deposited by the respondent insurance company. He submits that if the same is not allowed, irreparable loss and injury will be caused to the applicant.

4 On the other hand, the learned Counsel for the respondent no.2 Insurance Company vehemently opposed the present Civil Application. He submits that if entire amount is allowed to be withdrawn, then it will be difficult for them to recover the same in case they succeed in the First Appeal. He further submits that in any case, the Tribunal by its order dated 11.03.2013 allowed applicant no.1 to withdraw only a sum of Rs.4,10,000/-. He further submits that considering the facts of the present case, applicant should not be allowed to withdraw the entire amount at this stage.

5 The learned Counsel for the respondent no.2 further submits that at the time of filing of First Appeal, they deposited a sum of Rs.25,000/- with the Registry of the Court. He submits that this Court may be directed to the Registry to transfer the said amount to the M.A.C.T., Solapur.

6 Considering the submissions made by the learned Counsel for the applicants and averments made in paragraph 2 of Civil Application, I am satisfied that applicant has made out case for allowing the applicants to withdraw the some amount for their day-to-day expenses as well as for the purpose of education of applicant nos. 2 and 3. In the interest of justice, applicants may be allowed to withdraw some of Rs.4,10,000/- as granted by the Trial Court by its Judgment and Award dated 11.03.2013. The applicants are also entitled to withdraw the quarterly interest on fixed deposit amount.

7 The liberty granted to the applicants to move further application in case, they require further amount and that application will be decided on its own merits.

8 Hence, the following order.

i) Applicant no.1 Smt. Shobha Tanaji @ Tayappa Hajare is entitled to withdraw a sum of Rs.4,10,000/- with accrued interest without furnishing any security.

ii) Tribunal is directed to invest a sum of Rs.7,00,000/- with accrued interest in Fixed Deposit of any nationalised bank initially for a period of three years in the name of each applicant nos. 2 Amol Tanaji @ Tayappa Hajare and applicant no.3 Aparna Tanaji @ Tayappa Hajare.

iii) The sum of Rs.1,00,000/- with accrued interest to be invested by the Tribunal in the Fixed Deposit of any nationalised

bank in the name of applicant no.1 Smt. Shobha Tanaji @ Tayappa Hajare initially for a period of 3 years. Applicants nos. 1,2 & 3 are entitled to withdraw without any security quarterly interest on the said fixed deposits till further orders.

iv) The Registry of this Court is directed to transfer the sum of Rs.25000/- if any deposited by the Insurance Company at the time of filing of First Appeal along with accrued interest to the Motor Accident Claims Tribunal, Solapur in the account of M.A.C.P. No. 54 of 2010.

v) Liberty granted to the applicants to prefer further application for withdrawal of amount and that application will be decided on its own merits.

vi) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)