

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

**CIVIL APPLICATION NO.2494 OF 2013
IN
FIRST APPEAL NO.1412 OF 2011**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.Akshay Shinde i/b Mr.A.M.Kulkarni for the applicant

Mr.M.M.Sathaye for the respondent

CORAM : K.K.TATED, J.
DATED : 11/02/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by claimant no.1 for withdrawal of the amount of her share awarded by the Tribunal by judgment and award dated 30.10.2010.
- 3 The learned counsel for the applicant submits that applicant no.1 is household wife. She does not have any source of income. She submits that the applicant lost her husband in an accident. At that time, her husband was 30 years old and he was earning near about Rs.6000/- per month. He submits that the Tribunal on the

basis of notional income of Rs.3000/- per month awarded total sum of Rs.4,28,000/- with interest by way of compensation. He submits that out of the said total compensation, Tribunal has awarded to the applicant no.1's share Rs.1.0 lac. He submits that applicant had to take care of her minor child. She is taking education at present. He submits that it is very difficult for applicant no.1 to bear day to day expenses. Hence, this honourable court be pleased to allow applicant no.1 to withdraw remaining amount of her share without furnishing any security.

4 On the other hand the learned counsel for the respondent Insurance Company vehemently opposed the present Civil Application. He submits that the Tribunal has awarded sum of Rs.1.0 lac to the applicant's share only. He further submits that applicant has already withdrawn Rs.50,000/- without furnishing any security as per the order passed by this court. Therefore, there is no question of allowing the applicant to withdraw remaining amount of Rs.50,000/- without furnishing any security. Hence, there is no substance in the present Civil Application and same be dismissed with costs.

5 I have heard both the sides at length. In the present proceeding, applicant no.1 lost her

husband. At the time of accident, he was 30 years old and earning Rs.6000/- per month. The applicant no.1 is household wife. She has to take care of her minor child who is taking education. Considering these facts and applicant has already withdrawn sum of Rs.50,000/- without furnishing any security, I am of the opinion that applicant no.1 can withdraw further sum of Rs.50,000/- with accrued interest by furnishing solvent security to the satisfaction of the Tribunal. Hence, following order:

- a Civil Application is partly allowed.
- b Applicant no.1 is allowed to withdraw sum of Rs.50,000/- with accrued interest if any by providing solvent security to the satisfaction of the Tribunal.
- c Applicant is permitted to withdraw accrued interest on the fixed deposit of Rs.1,50,000/- which was made in the name of the minor Kumar Vinayak Dagadu Katale without furnishing any security.
- d Applicant no.1 Sangita Dagadu Katale can withdraw further quarterly interest on the said fixed deposit of Rs.1,50,000/- without furnishing any security for maintenance of minor Kumar Vinayak Dagadu Katale, till the hearing

and final disposal of appeal.

e The withdrawal of the amount shall be subject to outcome of the First Appeal.

f Civil application stands disposed off accordingly.

(K.K.TATED, J.)