

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

**CIVIL APPLICATION NO. 3344 OF 2014
IN
FIRST APPEAL NO. 1737 OF 2013**

Sou. Jyoti Vitthal Jagtap & Ors.	... Applicants
V/s.	
Bajaj Allianz General Insurance Co. Ltd.	... Respondent

Mr. Rupesh Zade for the applicants nos. 1 to 6.
Ms. Yogita Deshmukh i/e M.M. Sathaye for the respondent.

**CORAM : K. K. TATED, J.
DATED : 16/01/2015.**

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by original claimants for withdrawal of amount deposited by original Appellant Insurance Company pursuant to the order passed by this Court in Civil Application no. 4557 of 2013.

3 The learned counsel for the applicant submits that in a accident which occurred on 04.02.2012 applicant no.1 lost her husband. He submits that at the time of accident the deceased was of 36 years old and was working as operator in Bilt Graphic Paper Products Ltd (Unit Bhigwan). He further submits that the deceased was also doing agricultural and milk business. He submits that the deceased was getting annual income of Rs.3,00,000/- per annum from his service and Rs.2,00,000/- per annum from his agricultural and Rs.1,25,000/- from

his milk business. He submits that applicant no.1 is household wife and she has to maintain her three minor children as well as father-in-law and mother-in-law, who are Senior Citizens. It is very difficult for her to bare the expenses of minors in respect of education, day-to-day expenses etc. He further submits that even the father-in-law and mother-in-law of the applicant no.1 requires medical assistant from time to time. Therefore, this Court pleased be allowed the applicants to withdraw the amount deposited by the original Appellant insurance company during the pendency of the present First Appeal.

4 On the other hand, the learned counsel for the respondent original appellant insurance company vehemently opposed the present Civil Application. She submits that if entire amount is withdrawn by the applicants original claimants, then it is very difficult for them to recover the same in case they succeed in the First Appeal. If applicants are allowed to withdraw the amount, then it is necessary for them to provide bank guarantee to that effect.

5 I heard both the sides at length. It is to be noted that in the present proceeding, applicant no.1 lost her husband. Before accident, he was serving as Operator and was earning Rs.17,000/- per month, side-by-side, he was doing agricultural as well as milk business. He was getting near about Rs. 3,20,000/- from agricultural and milk business. Applicant no.1 widow of the deceased is house hold wife. She has to maintain her three minor children. She has to bare expenses for their education and day-to-day expenses. Apart from that, her father-in-law and mother-in-law also staying with her. They are

Senior citizens. She has to bare medical expenses also. Considering this fact, I am of the opinion that applicants are entitled to withdraw some amount without furnishing any security at present.

6 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.

7 Hence, the following order.

i) Applicant no.1 Smt. Jyoti Vitthal Jagtap is entitled to withdraw sum of Rs. 3,00,000/- without furnishing any security.

ii) Applicant nos. 5 and 6 Sau. Rajasbai @ Jayashree Jagannath Jagtap and Shri. Jagannath Lalasaheb Jagtap are entitled to withdraw Rs.1,50,000/- each without furnishing any security.

iii) The Tribunal is directed to invest the sum of Rs.6,00,000/- each in a fixed deposits of any nationalised bank in the name of applicant nos. 2, 3 and 4 i.e. Kum. Rajvardhan Vitthal Jagtap, Kum. Diksha Vitthal Jagtap and Kum. Prerana Vitthal Jagtap initially for the period of three years and same to be continued till further order of this court.

iv) The Tribunal is also directed to invest the sum of Rs.50,000/- each in the name of applicant nos. 5 and 6 Sau. Rajasbai @ Jayashree Jagannath Jagtap and Shri. Jagannath

Lalasaheb Jagtap in fixed deposit of any nationalised bank initially for the period of three years and same to be continued till further order of this court.

v) The Tribunal is directed to invest the remaining amount in fixed deposit of any nationalised bank in the name of applicant no.1 Sou. Jyoti Vitthal Jagtap initially for the period of three years and same to be continued till further orders.

vi) The applicant no.1 Sou. Jyoti Vitthal Jagtap is entitled to withdraw quarterly interest on fixed deposit which is invested in her name as well as in the names of Kum. Rajvardhan Vitthal Jagtap, Kum. Diksha Vitthal Jagtap and Kum. Prerana Vitthal Jagtap without furnishing any security.

vii) The applicant nos. 5 and 6 Sau. Rajasbai @ Jayashree Jagannath Jagtap and Shri. Jagannath Lalasaheb Jagtap both are entitled to withdraw quarterly interest on fixed deposit which are in their name without furnishing any security.

8 Civil application is disposed of accordingly.

(K.K.TATED, J.)