

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

**CIVIL APPLICATION NO.1436 OF 2015
IN
FIRST APPEAL NO.193 OF 2013**

Nandabai Anand Thorat and Ors. .. Applicants

vs.

Jagannath Shankar Kadam and Anr. .. Respondents

Mr.Omkar Warange for the applicants

Mr.Rakesh Singh i/b M/s.M.VKini and Co. for the respondents

**CORAM : K.K.TATED, J.
DATED : 17/06/2015**

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by plaintiffs for withdrawal of the amount deposited by the appellant Maharashtra State Electricity Distribution Company Ltd. in the Trial Court.
- 3 The learned counsel for the applicant submits that the applicant no.1 lost her husband due to electrocution. Hence the plaintiff filed S.C.Suit No.177 of 2006 for compensation of Rs.12.0 lacs.

4 The learned counsel for the applicant submits that applicant no.1 is household wife. She is not having any source of income at present. She is looking after the agricultural property. He submits that applicant no.1 have to maintain applicant nos.2 and 3 who are minors and taking education. He submits that applicant may be allowed to withdraw the amount deposited by the Maharashtra State Electricity Distribution Company Limited. He submits that if Civil Application is not allowed, irreparable loss and injury will be caused to the applicant.

5 On the other hand, the learned counsel for the appellant vehemently opposed the present Civil Application. He submits that if entire amount is withdrawn by the applicants, nothing will survive in the present proceeding. He submits that if this court allows the applicant to withdraw the amount deposited by them in that case, the claimants be directed to provide solvent security to the satisfaction of the Trial Court.

6 It is to be noted that in the present proceeding, due to electrocution, plaintiff no.1 lost her husband. On the date of accident he was 34 years old. Applicant has to maintain her two minor children. She has to spend for their education and other expenses.

7 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that at present, the applicant has made out a case for allowing her to withdraw some amount without furnishing any security. Hence, following order:

- A) Applicant no.1, Ujwalla Rajendra Kini is entitled to withdraw 1/3rd amount deposited by the appellant Maharashtra State Electricity Distribution Company Limited in the Tribunal without furnishing solvent security but subject to outcome of the present First Appeal.
- B) Tribunal is directed to invest remaining amount equally in the name of applicant no.2, Kum.Nidhi Rajendra Kini and applicant no.3, Kum.Manas Rajendra Kini in fixed deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.
- C) Liberty granted to applicant nos.2 and 3 to prefer appropriate application for withdrawal of the amount as and when they attain majority and that application will be decided on its own merits.
- D) Civil Application is disposed of accordingly.

(K.K.TATED, J.)