

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

CIVIL APPLICATION NO.3822 OF 2014
IN
FIRST APPEAL (ST) NO.25620 OF 2012

Lailabai Jamil Beg & Ors.

...Applicants

V/s.

ICICI Lombard General Insurance Co. Ltd.

...Respondent

Mr. Sudam Kale for the Applicants.

Mr. Rahul Mehta i/b. KMC Legal Venture for the Respondent

CORAM: K.K. TATED, J.

DATED : JANUARY 28, 2015

PC. :

1. Heard the learned counsel for the parties. This Application is preferred by the original claimants for withdrawal of the amount deposited by the Appellant Insurance Co. in the Trial Court.

2. The learned counsel for the Applicants submits that the Applicant No.1 is a housewife. She has to maintain minor Applicant Nos.2 to 5 as well as Applicant Nos.6 and 7 who are senior citizen. He submits that the Applicants have no source of income. He submits that on the date of accident, the deceased i.e. her husband was 37 years old. He was working as a Driver. He submits that the deceased was holding three wheeler tempo for his business. He submits that the deceased used to earn near-about Rs.8000/- pm. He submits that if the Civil Application is not allowed, irreparable loss and injury will be caused to the Applicant.

3. On the other hand, the learned counsel for the Insurance Co. vehemently opposed the Civil Application. He submits that the Applicant has not placed on record any documentary evidence to show that the deceased used to earn either Rs.8000/- pm. or Rs.5200/- pm. as held by the Tribunal. Therefore, there is no question of allowing the Applicants to withdraw the amount of compensation without furnishing any security.

4. Considering the submissions made by the learned counsel for the Applicants and the averments made in the Application, I am satisfied that the Applicants have made out a case for allowing the Applicants to withdraw some amount without furnishing any security. Hence, the following order:

a) The Applicants are entitled to withdraw the amount as under with accrued interest without furnishing any security:

- (i) Applicant No.1 Lilabai Jamil Beg – Rs.3,00,000/-
- (ii) Applicant No.2 Nazima Jamil Beg – Rs.30,000/-
- (iii) Applicant No.7 Shabbir Akbar Beg – Rs.30,000/-

b) The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of three years which will be renewed from time to time till hearing and final disposal of the appeal.

c) The Applicant No.1 is entitled to withdraw accrued interest on the fixed deposit account on quarterly rest for the benefit of Applicant Nos.3 to 5 without furnishing any security.

d) Civil Application stands disposed off accordingly.

(K.K. TATED, J.)