

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

**CIVIL APPLICATION NO.1524 OF 2015
IN
FIRST APPEAL (ST). NO.33856 OF 2012**

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.S.A.Tarale for the applicant

Mr.D.S.Joshi for the applicant

**CORAM : K.K.TATED, J.
DATED : 20/04/2015**

PC:

- 1 Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.
- 2 Heard the learned counsel for the parties.
- 3 This application is filed by claimants for withdrawal of the amount deposited by the Appellant Insurance Company in the Tribunal.
- 4 The learned counsel for the applicant submits that in an accident which occurred on 15.5.2006, the applicant no.1 lost his son Laxman Man. On the date of accident he was 30 years old and he was working as meson with J.D.S.Bricks and was getting salary of Rs.3000 per month. He further submits that applicant no.2 is a widow who is household wife. He submits that applicant no.1 is

a Senior Citizen and at present, she is admitted in Hospital. In support of this contention, advocate for the applicant relies on paragraph 4, 5 and 6 of Civil Application. The learned counsel for the applicant submits that applicants are having financial problem as they have to bear medical expenses. He submits that in the interest of Justice this Hon'ble Court be pleased to allow the applicant to withdraw the amount deposited by the Appellant Insurance Company. 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 Insurance Company vehemently opposed the present Civil Application. He submits that in the present proceeding, they raised objection about their liability. He submits that the deceased was travelling in an offending vehicle as a gratuitous passenger and therefore, Insurance Company is not liable to pay compensation. He submits that if entire amount is withdrawn by the applicant, nothing will survive in the present Civil Application. He submits that if they succeed in the present proceeding, it will be very difficult for them to recover the said amount. Therefore Civil Application be dismissed.

6 I have heard both the sides. In the present proceeding, in an accident which occurred on 15.5.2006 applicant no.1 lost her son and applicant no.2 lost her husband who was 30 years

old and working with J.D.S.Bricks and was getting salary of Rs.3,000/- per month.

7 Considering the relevant documents on record, Tribunal was awarded sum of Rs.4,23,000/- with 7% interest. Applicant No.1 is Senior Citizen and at present she is admitted in Hospital. Applicant no.2 is a household wife. Considering these facts, I am of the opinion that applicant no.1 and 2 are entitled to withdraw some amount without furnishing any security. Hence, following order:

- a) Applicant no.1, Shewanta Shetiba Mane and Applicant no.2 Aruna Laxman Mane, both of them are entitled to withdraw sum of Rs.75,000/- each with accrued interest without furnishing any security.
- b) Liberty granted to the respondents claimants to prefer appropriate application if they so desire for withdrawal of additional amount and that application be decided on its own merits.
- c) Tribunal is directed to invest remaining amount 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.
- d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)