IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3387 OF 2014
IN
FIRST APPEAL NO.487 OF 2013

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.

Mr.S.B.Deshmukh for the applicant

Mr.S.M.Dange for the respondent nos.1 to 4

CORAM : K.K.TATED, J.
DATED : 18/03/2015

PC:

1 Heard the learned counsel for the parties.

2 This application is preferred by claimants for withdrawal of the amount deposited by the respondent Insurance Company in the Tribunal.

3 The learned counsel for the applicant submits that in an accident which occurred on 7.1.2007 Ramhari, the husband of the claimant no.1 expired. At that time, he was 39 years old. He was in service earning Rs.21,000/- per month. He submits that the claimants preferred Claim Petition under section 166 of the Motor Vehicles Act, 1988 for Rs.50.0 lacs. He submits that considering the evidence on record the Tribunal has awarded sum

of Rs.19,71,400/-.

4 The learned counsel for the applicants submits that the deceased Ramhari was sole head of the family. He submits that claimant nos.2 and 3 are minors and taking eduction. There is no source of income of livelihood to the claimants. He further submits that claimant no.4 is Senior Citizen mother of deceased. Hence, claimant requires the amount deposited by Insurance Company. He further submits that when the Insurance Company in Appeal Memo in ground (p) on page 6 specifically stated that the Tribunal could not have awarded compensation of more than 50% of the awarded amount. He submits that this itself shows that Insurance company is challenging the judgment and award passed by Trial Court to the extent of 50% only. Hence, claimants may be allowed to withdraw the amount deposited by the Insurance Company.

5 On the other hand, the learned counsel for the respondent Insurance Company vehemently opposed the present Civil Application. He submits that if entire amount is withdrawn by the claimants, without furnishing any security, nothing will survive in the present proceeding. He submits that the Insurance Company has good chance of success in the present matter.

6 I have heard both the sides at length. In the present proceeding, the claimant no.1 lost her husband in an accident which occurred on 7.1.2007. At that time, he was 39 years old and was earning Rs.21,000/- per month. Considering the reasons disclosed by the applicant in paragraph 4 of the Civil Application, I am satisfied that the applicants claimants are entitled to withdraw some amount without furnishing any security. Hence, following order:

a) Applicant no.1/claimant no.1, Smt.Sunanda Ramhari Ekhande is entitled to withdraw sum of Rs.5.0 lacs with accrued interest without furnishing any security.

b) Applicant no.4/Claimant No.4, Yamunabai Kashinath Ekhande, mother of deceased is entitled to withdraw sum of Rs.4.0 lacs without furnishing any security.

c) Tribunal is directed to invest entire 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 First Appeal.

d) Applicant no.1 claimant no.1 is entitled to withdraw quarterly interest on the said fixed deposit without furnishing any security.

e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)