

YBG

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3984 OF 2014
IN
FIRST APPEAL NO.637 OF 2009

Smt.Parvati Suryadeo Yadav & Ors. ... Applicants

In the matter of:

The New India Assurance Co. Ltd. .. Appellants

Versus

Smt. Parvati Suryadeo Yadav & Ors. .. Respondents

CORAM : K.K.TATED, J.

DATED : 13th March 2015.

P.C.

1] Heard the learned Counsel for the parties.

2] This application is preferred by the original claimants for withdrawal of the amount deposited by the original respondent – insurance company with the tribunal.

3] In the present proceedings the incident occurred on 2nd May 2004, in which the applicant No.1 lost her husband and applicant Nos. 2, 3 and 4 their father. On the date of the accident, the deceased was 42 years old

and was doing business and was earning Rs.7000/- per month.

3] On the basis of these facts, the applicants filed claim petition under section 166 of the Motor Vehicles Act, claiming compensation of Rs.7 lakhs and the same was granted by the Trial Court. Learned Counsel for the applicants – claimants submits that earlier they had withdrawn a sum of Rs.1 lakh as per the order dated 9th July 2010 in C.A.No.2183 of 2010. The learned Counsel for the applicants submits that the applicant No.3, Ms.Swapna Yadav is now 23 years of age and wants to get married. He submits that even the applicant No.4 is taking education. He is doing his B.Pharm first year and for that purpose he has taken loan of Rs.1 lakh. He further states that it is very difficult for applicant No.1 to arrange funds for marriage expenses of applicant No.3, Swapna.

4] The learned Counsel for the applicant submits that in the interest of justice, this court be pleased to allow the applicant to withdraw a sum of Rs.2 lakhs without furnishing any security for the purpose of marriage of applicant No.3.

5] On the other hand, learned Counsel for the appellant – insurance

company vehemently opposed the present civil application. He submits that earlier the applicants have withdrawn a sum of Rs.1 lakhs without furnishing security as per the order dated 9th July 2010 in C.A.No.2183 of 2010. He submits that the applicants have not shown any cause for withdrawal of money. He further submits that if the insurance company succeeds in the appeal, the applicants will not be in a position to bring back the money. He submits that if the applicants want to withdraw money, then they must furnish security to the satisfaction of the tribunal.

6] I have heard the Counsel for both the sides. It is to be noted that in the present proceedings, the applicant No.1 lost her husband whereas applicants 2, 3 and 4 their father. On the date of accident i.e. 2nd November 2004, the deceased was 42 years old and was earning about Rs.7000/- per month. Considering the fact that the applicant No.3 is now 23 years old, the applicant No.1 requires some amount for her marriage expenses. These facts are stated by the applicant in para 4 of the application.

7] Considering the statement made by the learned Counsel for the applicant and reasons disclosed in para 4, I am satisfied that the

applicants have made out a case for allowing the application. Hence, following order:-

- (a) the civil application is allowed.
- (b) the applicant No.3, Swapna Yadav is allowed to withdraw a sum of Rs.1.25 lakhs without furnishing security for the purpose of her marriage expenses;
- (c) The civil application is disposed of accordingly;
- (d) Liberty is granted to the applicants to prefer an application for withdrawal of amount for educational purpose. If such an application is made, the same shall be decided on its own merits.

(K.K.TATED, J)