

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

**CIVIL APPLICATION NO.1623 OF 2014
IN
FIRST APPEAL (ST) NO.6910 OF 2013**

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.J.S.Kapre for the applicant

CORAM : K.K.TATED, J.
DATED : 27/03/2015

PC:

- 1 Heard the learned counsel for the applicant.
- 2 Though applicant Insurance Company is duly served, no one appeared on behalf of them when the matter was called out.
- 3 Advocate for the applicant undertakes to file Affidavit of Service within one week from today. Undertaking is accepted.
- 4 This application is preferred by claimants for withdrawal of the amount deposited by the Insurance Company pursuant to the order passed by this court in the Tribunal.
- 5 The learned counsel for the applicant submits that in an accident which occurred on 25.5.2008 applicant no.1 lost her husband, Vaijanath

Bhandari. On the date of accident, he was 34 years old. He was working as a driver and was earning Rs.4500 per month. He submits that the applicants produced on record evidence to show that the deceased was earning Rs.4500 per month. The Tribunal has considered the deceased's monthly income to the tune of Rs.4000 and deducted Rs.1000 towards personal expenses. The court has considered net dependency Rs.3000 and awarded compensation of Rs.4,79,000 with 9% interest. The learned counsel for the applicant submits that applicant no.1 is household wife. Applicant nos.2, 3 and 4 are minors and they are taking their education. He submits that it is very difficult for the applicant to bear day to day expenses as well as incidental expenses of applicant nos.2 to 5. He submits that in the interest of justice, this Hon'ble Court be pleased to allow the applicant to withdraw the amount awarded by the tribunal. He submits that if application is not allowed, irreparable loss, harm and injury will be caused to them.

6 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing some amount during the pendency of the present

First Appeal. Hence, following order:

- A) Applicant no.1, Laxmi Vaijanath Bhandari is permitted to withdraw sum of Rs.1,24,000/- with accrued interest without furnishing any security.
- B) Applicant no.1 is entitled to withdraw quarterly interest on the fixed deposit of applicant nos.2 to 5 without furnishing any security.
- 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.)