

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

**CIVIL APPLICATION NO.4069 OF 2010
IN
FIRST APPEAL NO.151 OF 2011**

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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Ms.Jyotsna Kamble for the applicant

Ms.Deepika Putta i/b Mr.S.M.Vidyarthi for the
for the respondent nos.1 and 2

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

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by claimant for withdrawal of the amount deposited by the respondent Insurance Company.
- 3 In the present proceeding, the applicant lost their son, Bhavesh aged 18 years in an accident which occurred on 16.09.2003. At that time, the deceased was in employment of Kamal Products, Pune on monthly income of approximately Rs.2,800/-. The claimants filed application under section 166 of the Motor Vehicles Act claiming compensation of Rs.7.0 lacs.

4 Considering the evidence on record the Tribunal taken loss of dependency of Rs.1,000/- per month and multiplier of 13 and awarded sum of Rs.1,56,000/-. In addition, the Tribunal awarded Rs.5,000/- towards loss of estate, Rs.2,500/- towards funeral charges. Now the Tribunal awarded Rs.1,65,000/- by way of compensation in favour of claimants.

5 The learned counsel for the applicants submits that because of financial crises, the applicants may be allowed to withdraw the amount deposited by the respondent Insurance Company. She submits that if the present Civil Application is not allowed, irreparable loss will be caused to the applicants.

6 On the other hand, the learned counsel for the respondent Insurance Company vehemently opposed the present Civil Application. She submits that the Tribunal awarded compensation on higher side. She further submits that the claimant had received no fault liability claim of Rs.50,000/-. Hence, there is no substance in the present Civil Application and same may be dismissed. In the present proceeding, the claimants are parents of the deceased, Bhavesh.

7 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and the reasons given by

the Tribunal in impugned judgment and award, I am of the opinion that at present claimants are entitled to withdraw some amount without furnishing any security. Hence, following order:

- a) Both the claimants are entitled to withdraw 25% amount each without furnishing any security.
- b) Claimants permitted to withdraw further amount of 25% each by furnishing solvent security to the satisfaction of the Trial Court.
- c) Civil Application is disposed of accordingly.

(K.K.TATED, J.)