

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

**CIVIL APPLICATION NO.173 OF 2015
IN
FIRST APPEAL (ST). NO.14727 of 2006**

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.Rupesh Lanjekar i/b Mr.A.G.Damle for the applicant

Mr.C.M.Lokesh i/b M/s.G.S.Hegde & Associates for the respondents

CORAM : K.K.TATED, J.
DATED : 22/01/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by claimants for withdrawal of the amount.
- 3 The learned counsel for the applicant submits that applicant no.1 is household wife. She is not earning anything. She has to maintain her three daughters as well as her father in law who is residing with her. He submits that it is very difficult for the applicant to bear the education expenses of three daughters as well as medical expenses of her father in law who is Senior Citizen. Therefore, applicant may be

allowed to withdraw the amount deposited by the appellant Maharashtra State Road Transport Corporation.

4 On the other hand, the learned counsel for the original appellant vehemently opposed the Civil Application. He submits that if the entire amount is withdrawn by the applicant without furnishing any security it will be very difficult for them to recover the same in case they succeed in the present First Appeal. He further submits that the Trial Court has not considered the contributory negligence at the time of awarding compensation.

5 I have heard both the sides at length. It is to be noted that in the present proceeding the accident took place in the year 1996 in which Subhash Surana died. At the time of accident he was 44 years old. He was Doctor by profession. That time his yearly income from all the sources was more than 2,92,873/-.

6 Considering the fact that applicant is household wife and she has to look after three daughters as well as father in law, I am of the opinion that applicant can withdraw some amount without furnishing any security and interest on fixed deposit.

7 The learned counsel for the applicant

submits that at the time of filing this First appeal they deposited sum of Rs.25,000/- in the Registry of this court. That amount be transferred to the trial court for investment.

8 Hence, following order:

- a) Applicant no.1 Ratnaprabha Subhash Surana is entitled to withdraw 35% compensation along with interest without furnishing any security.
- b) Applicant nos.2, 3 and 4 namely, Shilpa Subhash Surana, Shweta Subhash Surana and Samyag Subhash Surana who are major are entitled to withdraw 5% compensation along with interest without furnishing any security.
- c) Santokchand @ Sampatlal Pemraj Surana, Applicant no.5 is also entitled to 5% compensation with interest without furnishing any security.
- d) Registry is directed to transfer sum of Rs.25,000/- with accrued interest if any to the trial court immediately in the account of MACP No.449 of 1996.
- e) Trial Court is directed to invest the 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.

- f) Claimants are entitled to withdraw quarterly interest on the same fixed deposit equally without furnishing any security.
- g) Civil Application is disposed of accordingly.

(K.K.TATED, J.)