

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

CIVIL APPLICATION NO.4389 OF 2014

IN

FIRST APPEAL NO.1337 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.Yuvraj P.Narvankar for the applicant
Mr.S.M.Dange for the respondent no.1

CORAM : K.K.TATED, J.
DATED : 11/02/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by claimant no.1 for withdrawal of the amount deposited by the Insurance Company before the Tribunal pursuant to the order passed by this court in Civil Application No.3432 of 2014.
- 3 The learned counsel for the applicant submits that in an accident which occurred on 16.04.2011, the applicant claimant no.1 lost her husband who was working as a Driver on a truck and was drawing monthly salary including daily bhatta of Rs.11,000/-. He further submits that applicant has to look after her minor child who is taking education. He submits that applicant is a

household wife. She is not working. There is no source of income. Therefore, it is very difficult for her to maintain herself as well as her minor child. Therefore, this Honourable court be pleased to allow the applicant to withdraw the amount deposited by the appellant Insurance Company before the Tribunal.

4 On the other hand the learned counsel for the appellant Insurance Company submits that applicant has not made out any case for allowing her to withdraw the amount deposited by them. He submits that the Tribunal has awarded compensation on higher side. He further submits that if the applicant is allowed to withdraw the amount without furnishing any security then it will be very difficult for them to recover the same in case they succeed in the First Appeal.

5 I have heard both the sides. In the present proceeding applicant lost her husband who was 32 years old and was working as a Driver on truck drawing a salary of Rs.11000 p.m.

6 Considering the reasons disclosed by the applicant in Civil Application and the reasons given by the Trial Court in impugned judgment and award dated 19.5.2014 on fact that the applicant has to take care of her minor child who is taking education, I am of the opinion that

applicant is entitled to withdraw some amount without furnishing any security.

7 In the present proceeding, the trial court awarded total compensation of Rs.30,60,000/- out of which the applicant is entitled to 30%. Considering these facts, following order is passed:

a) Applicant Jayshree Mahesh Gosavi is entitled to withdraw 15% amount with interest deposited by the Insurance Company in the Tribunal without furnishing any security subject to outcome of the present First Appeal.

b) Applicant is also entitled to withdraw quarterly interest on fixed deposit made in the name of applicant no.2 Master Pratik Mahesh Gosavi without furnishing any security but subject to outcome of the present First Appeal.

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.)