

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Civil Application No. 366 of 2016

(In Civil Application No. 15556 of 2015)

(In First Appeal Stamp No. 23717 of 2012)

1. Jayshri w/o. Jayvant Kakulate,
Age : 39 years,
Occupation : Nil.
2. Kaooj Jayvant Kakulate,
Age : 27 years,
Occupation : Education.
3. Priyanka Jayvant Kakulate,
Age : 25 years,
Occupation : Education.
4. Dhondu Nattu Kakulate (Deleted).
5. Mankarnabai Dhondur Kakulate,
Age : 83 years,
Occupation : Nil.

All R/o. Dhamanar,
Taluka : Sakri,
District : Dhule.

.. Applicants
(Original claimants)

versus

1. Gautam Champalal Lunawat,
Age : - ,
Occupation : Maruti Omni Owner,
R/o. Tongaon,
Taluka & District : Jalgaon.
2. Reliance General Insurance Co. Ltd.,
Jalgaon (through Manager, Reliance
General Insurance Company Ltd.,
570, Naigaon Cross Road,

Next to Royal Industrial Estate,
Wadala West, Mumbai - 400 001
(Insurer of Maruti Omni
No. MH-01/MA-3372)

.. Non-applicants.

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Mrs. Sabahat T. Kazi, Advocate, for applicants.

*Mr. Mandar A. Deshmukh, Advocate, holding for
Mr. S.G. Chapgaonkar, Advocate, for non-applicant no.2.*

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CORAM : A.M. BADAR, J.

DATE : 18TH JANUARY 2016

PER COURT :

1. This is an application by original claimants for modification of order dated 2nd December 2015.
2. Heard the learned Counsel appearing for applicants / original claimants as well as the learned Counsel appearing for non-applicant no.2 / original appellant.
3. In fact, by the instant application, original claimants are seeking permission to withdraw the amount of compensation awarded to them by the learned Motor Accident Claims Tribunal, in excess of the apportionment and disbursement made by the learned Motor Accident Claims Tribunal.

4. The learned Counsel for applicants / original claimants submitted that claimant no.1 Jayashri was awarded compensation of Rs. 5,00,000/- out of which she has already withdrawn an amount of Rs. 2,00,000/-. The learned Tribunal has directed investment of remaining amount of Rs. 3,00,000/-. According to the learned Counsel for applicants, applicant no.1 Jayashri is suffering from spine and knee problem and for treatment of the same, she requires further amount of Rs. 1,50,000/-. In support of this contention, certificate of Dr. Aniket Shah is produced on record. It is thus seen that applicant no.1 is in need of money for her urgent medical treatment.

5. The learned Counsel for applicants further submitted that applicant no.3 Priyanka who was minor at the time of filing of claim petition, has attained majority with passage of time. According to the learned Counsel for applicants, applicant no.3 Priyanka is married in the year 2012 and for her marriage, substantial amount was required to be spent. Hence in submission of the learned Counsel for applicants, applicant no.3 Priyanka be permitted to withdraw an amount of Rs. 1,00,000/- in addition to the amount of Rs. 1,00,000/- which is already withdrawn by her. In support of this contention, applicants have placed on record marriage invitation card of applicant no.3 Priyanka.

6. The amount of compensation awarded to applicants was on account of death claim of father of applicant no.3 Priyanka. I find much force in the contention of the learned Counsel for applicants, that marriage of Priyanka was solemnized after obtaining hand loan from the relatives.

7. Mrs. Kazi, the learned Counsel for applicants further submitted that applicant no.5 - mother of deceased Jayvant Kakulate is more than 80 years old and for her medical treatment, she is in need of amount. In support of this contention, documentary evidence is placed on record. It is seen that amount of Rs. 1,50,000/- was awarded to applicant no.5. Out of that amount, she has already withdrawn an amount of Rs. 1,00,000/-. The learned Tribunal has directed investment of amount of Rs. 50,000/- in her share.

8. Hence I pass the following order :-

- (a) In addition to the amount already withdrawn by applicant no.1 Jayashri, she is permitted to withdraw amount of Rs. 1,50,000/- towards her medical treatment.
- (b) Applicant no.3 Priyanka is permitted to withdraw an amount of Rs. 1,00,000/- in addition to the amount of Rs. 1,00,000/- already withdrawn by her. The amount so withdrawn should strictly be spent on hand loan incurred for her marriage.
- (c) Applicant no.5 Mankarnabai is permitted to withdraw the amount of Rs. 50,000/- which is directed to be invested by the learned Tribunal, for the purpose of her medical treatment.
- (d) Needless to mention that rest of the amount under the award should be invested in the Fixed Deposit as per the directions of the learned Tribunal.

9. The Civil Application is partly allowed in the aforesaid terms and disposed of accordingly.

(A.M. BADAR)
JUDGE

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