

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3182 OF 2015
IN
FIRST APPEAL NO.1037 OF 2013

Ms. Nikita Nilesch Kothari & Ors. .. Applicants

In the matter of:

IIFCO TOKIO General Insurance Co. .. Appellants

-Versus-

Ms. Nikita Nilesgh Kothari & Ors. .. Respondents

Mr.A.M.Gokhale for applicants

Ms. Divya Menon i/b. A.S.Vidyarthi for respondents (Orig.Appellants)

Mr. Mahendra Agvekar h/f Mandar Limaye for respondent No.6

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 30th August 2016.

P.C.

1] This is an application preferred by original claimant seeking withdrawal of the amount of compensation as deposited with the tribunal. It is submitted that the applicant Nos. 1 to 3 are daughters of the deceased and applicant No.4 is mother. The applicants need money for the purposes of their education and, therefore, it is urged that they may be permitted to withdraw the entire amount of compensation as deposited. The learned Counsel for the respondent has opposed this

request on the ground that it is a case of composite negligence and the amount awarded by the tribunal is in excess. Considering the requirements of the applicants and the fact that the applicants were permitted to withdraw 50% of the compensation amount in another appeal, which was pertaining to the mother of the applicant Nos. 1 to 3, who died in the same accident, in my considered opinion, it will serve the purpose if the applicants are permitted to withdraw 50% of the amount deposited in this case.

2] Accordingly, the application is allowed. The applicants are permitted to withdraw 50% of the deposited amount with interest accrued thereon subject to furnishing usual undertaking. Rest of the amount will be invested in any nationalised bank initially for a period of one year and subsequently to be renewed from time to time.

3] The Civil Application is disposed of accordingly.

(Judge)

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.. Respondents

Ms. Divya Menon i/b. A.S.Vidhyarthi for appellant

Mr. A.M.Gokhale for respondent Nos. 1 to 4

Mr. Mahendra Agvekar with Mandar Limaye for respondent No.6

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1] This appeal be tagged together with First Appeal No.1035 of 2013
which also pertains to the same accident.

(JUDGE)