

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3669 OF 2016
IN
FIRST APPEAL NO.596 OF 2011

Smt. Laxmibai Bhanudas Devkar & Ors.

.. Applicants

-Versus-

Maharashtra State Road Transport
Undertaking and Ors.

..Respondents

Ms. Rina Kundu for applicants

Ms. D. Shalini Shankar for respondent No.7

Mr.C.M.Lokesh i/b. G.S.Hegde & Associates for respondents/original
appellants.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 3rd October 2016.

P.C.

1] This is an application preferred by the applicants – original claimants for withdrawal of the amount of compensation deposited by the insurance company with the tribunal.

2] The applicant No.1 is widow and applicant Nos. 2 to 5 are the children of the deceased. It is submitted that in view of the death of the deceased, they have lost the only earning member in the family. The applicant Nos. 3 and 5 are of marriageable age and hence, the applicant

requires some amount to be withdrawn.

3] The learned Counsel for the appellant has resisted this application on the ground that the defence is of contributory negligence as also the amount awarded by the Tribunal being on higher side.

4] Considering the fact that the appeal is of 2011 and is not likely to be heard immediately and having regard to the need of the applicant, the applicants are permitted to withdraw 40% of the amount along with interest accrued thereon subject to furnishing usual undertaking that in case the decision of the appeal goes against them, they will return the entire amount with interest thereon. It is submitted that the matter is already admitted. Paperbook is also filed. In view thereof, this appeal be added to the final hearing board, commencing from 28th November 2016.

(DR. SHALINI PHANSALKAR-JOSHI, J)