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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.3745 OF 2016
IN
FIRST APPEAL NO.989 OF 2016

Abusaleha Shaikh & Ors. .... Applicants
In the matter of
Transport Manager,
Thane Municipal Transport Undertaking, Thane .... Appellant
V/s.
Abusaheha Shaikh & Ors. .... Respondents

Mr. P.J. Pawar for the Applicants-Original Respondents.

Mr. N.R. Bubna for the Respondent-Original Appellant.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 25TH AUGUST 2016.

P.C. :

1. Heard learned counsel for the parties.

2. This is an application preferred by the original claimants seeking withdrawal of the compensation amount, as deposited by the appellant-Undertaking in the Tribunal. It is submitted that, as per the Award, appellant-Undertaking has deposited the compensation amount of Rs.5,90,000/- along with interest @ 8% i.e. Rs.44,000/-. It is urged that the amount of Rs.2,50,000/- is invested in the Fixed Deposit in favour of applicant Nos.3 and 4 as per the order passed by the Tribunal.

3. In view thereof, it is urged that, excluding the said amount, the amount of Rs.5,90,000/- and Rs.44,000/- is yet pending in the Tribunal and the applicants may be permitted to withdraw the said amount; especially, having regard to the fact that the Deceased was the only bread-winner in the family and the applicants need certain amount for their maintenance.

4. Learned counsel for the appellant-Undertaking has strongly resisted this Civil Application by contending, inter alia, that the accident had occurred due to sole negligence of the Deceased. Even as regards the quantum of compensation, it is submitted that, the Tribunal has fallen into an error by accepting the income of the Deceased as Rs.5,000/-, when Deceased was only a boy of 18 years.

5. Having considered the submissions of learned counsel for the applicants and appellant-Undertaking, in my opinion, as the appeal is of the year 2016, it will take considerable time for disposal. During the pendency of this appeal, the applicants need some amount for their maintenance, which goes without saying, and, therefore, even if they are not permitted to withdraw the entire amount of Rs.5,90,000/- and

Rs.44,000/-, they need to be permitted to withdraw 50% of the said amount, subject to furnishing usual undertaking.

6. Accordingly, the Civil Application is allowed. The applicants are permitted to withdraw 50% of the amount of Rs.5,90,000/-, subject to furnishing usual undertaking.

7. Civil Application is disposed of in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]