

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

**CIVIL APPLICATION NO.3712 OF 2015
IN
FIRST APPEAL NO.1430 OF 2014**

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.Balasaheb Deshmukh for the applicant
Mr.S.M.Dange for the respondent no.1

CORAM : K.K.TATED, J.
DATED : 06/01/2016

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by claimant for withdrawal of the amount deposited by the appellant Insurance Company in the Tribunal.
- 3 The learned counsel for the applicant submits that applicant at present does not have any source of income. She has to maintain her four minor children. She has to maintain her day to day expenses as well as expenses for education. She further submits that applicants are residing in small dilapidated house which requires reconstruction and hence, this Hon'ble Court be pleased to allow the applicant to withdraw the amount deposited by the Insurance Company. He

submits that if present Civil Application is not allowed, irreparable loss will be caused to the applicant.

4 On the other hand, the learned counsel for the Insurance Company submits that Tribunal by order dated 29.3.2014 specifically directed to deposit sum of Rs.4,50,000/- in fixed deposit of any nationalised bank in the name of minors. Therefore, in any case, applicant should not be allowed to withdraw the share of minors. He further submits that if entire amount is withdrawn by the claimant nothing will survive in the present proceeding. He submits that they have good chance of success in the present proceeding. If they succeed in the present proceeding then it will be difficult for them to recover the amount from the claimants. Hence, there is no question of allowing the applicant claimant to withdraw the entire amount.

5 I have heard both the sides. It it to be noted that in the present proceeding in an accident which occurred on 22.1.2011 husband of claimant no.1 Rajkumar Rajendraprasad Singh expired. At that time, he was 28 years old. He was in permanent service at Magna Casting and Machine Works Private Limited, Velu, Taluka Bhor as an Operator on salary of Rs.10481/- per month.

6 Considering these facts, I am of the opinion

that as the respondent org.claimant has to maintain her four minor children, she is entitled to withdraw some amount. Hence, following order is passed:

- a) Applicant no.1, Kanchandevi Rajkumar Singh & Others is permitted to withdraw sum of Rs.10,00,000/- without furnishing any security.
- b) 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.
- c) Applicant no.1 Kanchandevi Rajkumar Singh is permitted to withdraw quarterly interest on fixed deposit amount for the benefit of minor children, without furnishing any security.
- d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)