

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 3317 OF 2015****IN****FIRST APPEAL NO. 1176 OF 2015**

Priya Kishor Chaudhari & Ors.

.....Applicants

Vs.

Royal Sundaram Alliance
Insurance Co. Ltd.

....Respondent.

Mr. T.J. Medon, for the Applicants.

Mr. Nikhil Mehta i/by M/s. KMC Legal Venture for the Respondent-
Royal Sundaram Alliance Insurance Co. Ltd.**CORAM : ANOOP V. MOHTA AND
G.S. KULKARNI, JJ.****DATE : 25 AUGUST 2016.****ORDER:-**

Heard the learned counsel appearing for the Applicants
and the learned counsel for the Respondent-Insurance Company.

2 This is an Application on behalf of the Applicants-Original
Respondents/Claimants praying that the Applicants be allowed to
withdraw the amount deposited by the Respondent-Insurance

Company in pursuance of the final order dated 16 October 2014, passed by the Motor Accidents Claims Tribunal, (MACT) Raigad at Alibag in MA No. 99 of 2010.

3 The MACT, by the impugned order, which is the subject matter of the above Appeal, had granted compensation as under:-

ORDER

- (1) *The Application is being admitted with certified costs.*
- (2) *The Opponents No. 1 and 2 may individually or jointly pay the amount of Rs.1,18,33,450/- (Rupees one crore eighteen lakh thirty three thousand four hundred fifty only) to the Applicant, with the interest at the rate of 7.5% per year from the date of filing of the Application, till the recovery of the entire amount;*
- (3) *Out of the said amount the amount of Rs.25,00,000/- (Rupees twenty five lakh only) each, may be kept in any Nationalized Bank, in the name of Applicant No.2 Devayani Kishor Chaudhary, and Applicant No.3 Simran Kishor Chaudary till they attain the age of majority;*
- (4) *Out of the said amount, an amount of Rs.18,00,000/- (Rupees eighteen lakhs only) may be kept in the name of the Applicant No.1 Smt. Priya Kishor Chaudhary, as deposit in any*

Nationalised Bank, for the period of three years and the entire remaining amount with the amount of interest may be given to the Applicant No.1, by Account payee Cheque.

(5) The remaining Court fees may be paid within one month.

(6) The award may be made accordingly.

4 By our order, passed today, we have already admitted the Appeal.

5 In pursuance of the order dated 5 March 2015 passed in Civil Application No. 1001 of 2015, the Respondent-Insurance Company has deposited the total compensation in the Tribunal as per the award of the Tribunal. The Applicants-Claimants have accordingly filed the present Civil Application, seeking withdrawal of the same.

6 After the matter was heard for some time on the last occasion, we felt proper that the Applicants remain present in the Court, so that an appropriate order for withdrawal of the award amount can be passed by this Court after making necessary inquiries. Accordingly, today Applicant No.1, who is the wife of the deceased

and Applicant Nos. 2 and 3, who are the daughters of the deceased are present in the Court. Applicant No.2 is a major and during the pendency of the present Appeal, it is stated that she got married. Applicant No.3 has also attained majority and is pursuing 2nd year of the medical Course in a private medical college at Navi Mumbai.

7 After hearing the Applicants, who are present in the Court and taking into consideration the facts and circumstances of the case, we feel it appropriate that the Applicants be permitted to withdraw an amount of Rs.1,00,00,000/- (Rupees One Crore only) out of the amount as deposited by the Respondent-Insurance Company before the Tribunal. However, this shall be subject to the condition that out of the said amount, Applicant No.1 shall keep in fixed deposit an amount of Rs.30,00,000/- (Rupees Thirty Lacs only), for the benefit of Applicant No.3 till she completes her education and for the purposes of her marriage. Applicant No.1 would be permitted to utilize the interest on the said fixed deposit for the education purposes of Applicant No.3.

8 The withdrawal of amount, we have permitted is subject to

the usual undertaking to be filed by Applicant No.1 and shall be subject to the final order which would be passed in the present Appeal.

9 We are informed that after the withdrawal of rupees one Crore as permitted by us, a balance amount of Rs.53,51,677/- (Rupees Fifty Three Lacs Fifty One Thousand Six Hundred Seventy Seven only), would remain deposited with the Tribunal. It is directed that the Tribunal shall invest the said amount in a fixed deposit in a Nationalized Bank initially for a period of two years. The fixed deposit is directed to be renewed from time to time during the pendency of the Appeal. This fixed deposit would be subject to the final order passed in the present Appeal.

10 The amount of Rs.25,00,000/- (Rupees Twenty Five Lacs only) as deposited by the insurance company under Section 173 of the Motor Vehicles Act, is directed to be transferred to the MACT, which also be invested in a fixed deposit in a Nationalized Bank, which would also be subject to the final orders passed in the present Appeal.

11 For the limited purpose, to enable the parties to withdraw
the amount, the record and proceedings be forthwith transferred to
the MACT, which shall be made available at the time of final hearing
of the matter.

12 Civil Application is disposed of accordingly. No costs.

(G.S. KULKARNI, J.)

(ANOOP V. MOHTA, J.)