

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 7872 OF 2017 IN FA/4331/2016

MADHUBALA ANIL CHALLANI (DIED) THR LRS ANIL AND ORS
VERSUS
UNITED INDIA INSURANCE CO. LTD AURANGABAD AND ORS

...

Advocate for Applicants : Mr. Anil A Joshi.
Advocate for Respondent No.1 : Mr. S. S. Rathi.

...

CORAM : K.K. SONAWANE, J.

DATED : 20TH SEPTEMBER, 2017.

Order :-

Leave to correct and delete the name of applicant Anil s/o. Madanlal Chhallani in the present application.

2. Heard learned counsel for the applicants (original claimants) and respondent No.1 (original appellant) - United India Insurance Company Limited. None appears for the rest of respondents. Perused the application and relevant documents placed on record.

3. The learned counsel for the applicants (original claimants/respondents) submits that, the respondent No.1 Insurance Company has deposited decretal amount as awarded by the learned Motor Accident Claims Tribunal, Aurangabad, in M.A.C.P.No. 314 of 2010 and he seeks permission for withdrawal of amount.

4. Admittedly, respondent No.1 Insurance Company filed the appeal and agitated the findings expressed by the learned Tribunal for monetary liability of the Insurance Company. But, in view of attending circumstances, I do not find any impediment to allow the applicants-original claimants to withdraw some part of the amount at this juncture. However, the amount is deposited by the Insurance Company in lieu of compensation towards loss sustained to the applicants-original claimants arising from the vehicular accident. The respondent No.1- Insurance Company has deposited total compensation amount of

Rs. 24,30,946/- (Rupees Twenty Four Lac Thirty Thousand Nine Hundred Forty Six Only) in this case. Considering the nature of submissions, I find it justifiable to allow the applicants to withdraw the amount of Rs.14,00,000/- (Rupees Fourteen Lacs Only) in lump-sum of the amount deposited in this Court by the respondent (original appellant)- Insurance Company. It would not cause injustice and prejudice to the appellant-Insurance Company. In contrast, it would sub-serve the purpose for substantial justice. The applicants-original claimants are permitted to withdraw the amount in following manner :-

(i) Out of amount of Rs. 14,00,000/- (Rupees Fourteen Lacs Only) deposited by the respondent No. 1 – Insurance Company,
(A) Rs. 4,00,000/- (Rupees Four Lacs Only) be disbursed in favour of applicant No.1 Anil Madanlal Chhallani i.e. husband of deceased.
(B) Rs. 6,00,000/- (Rupees Six Lacs Only) be disbursed in favour of applicants No.2 and 3 – Kum Rupal d/o. Anil Chhallani and Yash s/o. Anil Chhallani, equally (i.e. Rs.3,00,000/- each),
(C) Rs. 4,00,000/- (Rupees Four Lacs Only) be kept in Fixed Deposit Receipts Account in the name of minor applicant No. 4 - Chirag Anil Chhallani, in any Nationalized Bank till attaining his majority.

(ii) The Registry to disburse the amount mentioned above in favour of applicants-original claimants No.1 to 3, on furnishing undertaking to the effect that, in case, any adverse situation arises after adjudication of appeal on merit, the applicants-original claimants will refund the amount within stipulated period as directed by this Court.

(iii) Rest of the balance amount deposited on behalf of respondent- Insurance Company in this appeal i.e. amount Rs.10,30,946/- (Rupees- Fourteen Lacs Thirty Thousand Nine Hundred Forty Six Only) be invested in Fixed Deposit Receipts Account in any Nationalized Bank for a period of two (2) years or till adjudication of the appeal, whichever is earlier.

5. Accordingly, civil application is allowed in above terms and disposed of.

[K. K. SONAWANE]
JUDGE

rrd.