

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

CIVIL APPLICATION NO. 6026 OF 2017 IN FAST/38423/2016

MADHUBALA ANIL CHALLANI AND OTHERS
VERSUS
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION MUMBAI
AND OTHERS

...
Advocate for Applicants : Mr. A. A. Joshi.
Advocate for Respondent No.1 : Smt. Ranjana D. Reddy (Absent).
Advocate for Respondent No.4 : Mr. S. S. Rathi.

...
CORAM : K.K. SONAWANE, J.

DATED : 20TH SEPTEMBER, 2017.

Order :-

Heard the learned counsel for the applicants-original claimants and respondent No.1- Maharashtra State Road Transport Corporation (MSRTC), Mumbai. Perused the application and relevant documents produced on record.

2. The learned counsel for the applicants-original claimants submits that, the respondent No.1- MSRTC 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 to withdrawal of amount.

3. Admittedly, respondent No.1 MSRTC filed the appeal and agitated the findings expressed by the learned Tribunal for monetary liability of the MSRTC. 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. The amount is deposited by the MSRTC in lieu of compensation towards loss sustained to the applicants-original claimants arising from the vehicular accident. Hence, I find that 50 % of the amount deposited by the MSRTC in this case be allowed to be withdrawn by the applicants-original claimants. The respondent No.1- MSRTC has deposited total compensation amount of Rs. 28,09,328/- (Rupees Twenty Eight Nine Thousand Three Hundred Twenty Eight Only) in this case, the 50 % of the total deposited amount would accrue to Rs.14,04,664/- (Rs. Fourteen Lacs

Four Thousand Six Hundred Sixty Four Only). Therefore, the applicants-original claimants are permitted to withdraw the lump-sum of Rs.14,00,000/- (Rupees Fourteen Lacs Only) from the amount of compensation deposited on behalf of respondent No.1- MSRTC. It would not cause injustice and prejudice to the respondent- MSRTC. 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) deposited by the respondent No. 1 – MSRTC,
 - (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 s/o. Anil Chhallani, in any Nationalized Bank till attaining the age of 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- MSRTC in this appeal i.e. amount Rs.14,04,664/- (Rupees-Fourteen Lacs Four Thousand Six Hundred Sixty Four Only) be invested in Fixed Deposit Receipts Account in any Nationalized Bank for a period of two years or till adjudication of the appeal, whichever is earlier.

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

[K. K. SONAWANE]
JUDGE

rrd.