

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

CIVIL APPLICATION NO. 4189 OF 2017  
IN FA/1889/2012

PARUBAI UDDHAV IKILE AND OTHERS  
VERSUS  
ICICI LOMBARD GENERAL INSURANCE CO. LTD THR LEGAL OFFICER AND  
OTHERS

...  
Advocate for Applicants : Mr. S. V. Mundhe  
Advocate for Respondent No.1 : Mr.M.A.Deshmukh h/f. Mr. S. S. Patil.  
Advocate for Respondent No.2 : Mr.Prasad Kadam h/f.Mr.S.J.Salunkhe. ...

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

**DATED : 7<sup>TH</sup> NOVEMBER, 2017.**

**Order :-**

Heard learned counsel for applicants-original claimants and learned counsel for respondent No.1-appellant Insurance Company. None appears for respondents No. 2 and 3.

2. This is an application for seeking permission to withdraw the amount of compensation deposited in this Court on behalf of appellant-Insurance Company. As per Award passed by the learned Tribunal, the total sum of Rs.8,64,240/- (Rs. Eight Lac Sixty Four Thousand Two Hundred Forty Only) came to be deposited on behalf of the respondent-appellant in this case being compensation payable to the applicants. The applicants are the original claimants. Applicant No.4 Sainath s/o. Uddhav Ikile is the minor son of deceased Uddhav. According to learned counsel for applicants-original claimants, deceased Uddhav was the earning member of family and due to his death, the applicants-original claimants are suffering from hardship. They are poor persons residing in the remote area of Harewadi, Tal. Bhalki, Dist Bidar, State Karnataka. He prayed to allow the applicants-original claimants for withdrawal of amount deposited in this Court.

3. Learned counsel for respondent (appellant)- Insurance Company opposed the applicants and submits that legal issues raised in the appeal are very much considerable and appreciable in nature and appellant Insurance company has every hope of success in the appeal and in case the amount is disbursed in favour of applicants-original claimants, it would create hurdles and difficulty to recover the same in future from

the applicants-original claimants. Hence, he prayed to reject the application.

4. I have considered rival submission advanced on behalf of both sides. Admittedly, the appellant-Insurance Company intends to agitate the findings of the learned Tribunal allowing the applicants-original claimants for compensation in regard to death of family member in the vehicular accident. Considering the nature of subject matter, there is no impediment to allow the applicants-original claimants to withdraw at-least 50 % of the amount deposited on behalf of respondent (appellant)-Insurance Company in this Court. It would not cause any injustice and prejudice to appellant-Insurance Company. In contrast, it would sub-serve the purpose for substantial justice. Admittedly, applicants-original claimants lost their earning member in the vehicular accident, resulting into hardship to entire family. Hence, atleast sum of Rs. 4,32,000/- being 50 % of the total sum depositing in this Court be allowed to be withdrawn by applicants-original claimants in this case.

5. As referred above, applicant No.4 Sainath s/o. Uddhav Ikile is still minor. Therefore, his share to the tune of Rs. 86,400/- (Rs. Eighty Six Thousand Four Hundred Only) be invested in Fixed Deposit Receipts Account of any Nationalized Bank for a period of two years or till decision of the appeal on merit whichever is earlier. The balance amount of Rs.3,45,600/- (Rs. Three Lac Forty Five Thousand Six Hundred Only) be disbursed equally in favour of rest of adult family members of the applicants (original claimants) subject to the condition that applicants-original claimants No.1 to 3 and 5 shall furnish undertaking to the satisfaction of Registrar (Judicial) of this Court with effect that in case any adverse situation arises after adjudication of appeal on merit, the applicants-original claimants will refund the amount received forthwith after requisite direction from this Court. The Registry to do the needful for disbursement of total sum of Rs.4,32,000/- (Rs. Four Lac Thirty Two Thousand Only) in favour of applicants-original claimants as mentioned above. In the aforesaid terms, the civil application stands disposed of.

**[ K. K. SONAWANE ]**  
**JUDGE**

rrd.