

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

18 CIVIL APPLICATION NO. 13829 OF 2017
IN FA/4493/2016

PARVATI PRABHAKAR PITALWAD AND OTHERS
VERSUS
JASBIRSINGH PALSINGH SONDH AND ANR

...
Advocate for Applicants : Mr. Suresh N. Rodge
Advocate for Respondent No. 2 : Mr.A.S. Osmanpurkar
...

CORAM : K.K. SONAWANE, J.

DATED : 20th NOVEMBER, 2017.

Order :-

1. Heard learned counsel for applicants and learned counsel for respondent No. 2 - Insurance Company. None appears for respondent No. 1-owner of the vehicle.

2. Present application is filed on behalf of applicants - original claimants seeking withdrawal of the amount awarded by learned Commissioner. The appellant - Insurance Company agitated the findings of the learned Commissioner by filing First Appeal No. 4493 of 2016 and the same is pending before this Court. Meanwhile, original claimants preferred present application and submits that appellant-Insurance Company has deposited in all Rs.9,02,936/- before the learned Commissioner towards compensation amount payable as per the Award. The original claimants seek permission to withdraw the same pending the appeal.

3. During the course of argument, it was agreed that the claimants be allowed to withdraw the sum of Rs.5,00,000/- from the amount deposited by respondent-Insurance Company before the Commissioner. In view of nature of subject matter and issue raised in the appeal, I do not find any impediment to allow the applicants - original claimants for withdrawal of total sum of Rs. 5,00,000/- from the amount deposited

by the Insurance Company. There are three claimants, who are minor daughters of the deceased Prabhakar Pitalwad and applicant No. 1 the is widow of deceased Prabhakar.

4. Considering the age of minor claimants, I find it justifiable to allow applicant No. 1 for withdrawal of Rs. 2,00,000/-(Rupees Two Lakhs) from the amount deposited before the learned Commissioner by the respondent-Insurance Company subject to condition of furnishing undertaking to the effect that applicants would refund the amount forthwith, in case, any adverse situation arises after success of the Insurance Company in the appeal. Rest of 3,00,000/-(Rupees Three Lakhs) be invested in FDR account in any Nationalized Bank for a period of two years in the name of minor applicants, namely, Anusaya Prabhakar Pitalwad and Mudrika Prabhakar Pitalwad and Yogita Prabhakar Pitalwad i.e Rs.1,00,000/- (Rupees One Lakh each). Applicant No. 1 Parvati Prabhakar Pitalwad shall furnish undertaking on behalf of minor daughters that in case adverse situation arises amount deposited in the FDR account in the name of minor daughters would be refunded immediately after requisite orders from this Court. The learned Commissioner to execute the order accordingly and do the needful for disbursement of the amount in favour of claimants as mentioned above.

5. Civil application is allowed in above terms accordingly .

Sd/-

[K. K. SONAWANE]
JUDGE

MTK