

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

923 CIVIL APPLICATION NO. 14439 OF 2017
IN FA/2557/2016

ANJANA RAJU GAWALI
VERSUS
LALIT GOVIND SAVALE AND ORS

...
Advocate for Applicant : Mr. Amit S. Savale
Advocate for Respondent No. 3 : Mr. S.G. Chapalgaonkar
...

CORAM : K.K. SONAWANE, J.

DATED : 07TH DECEMBER, 2017.

Order :-

1. Heard learned counsel for applicant and respondent No. 3 - Insurance Company. Perused the application and relevant documents on record.
2. Learned counsel for the applicant submits that the matter pertains to death claim arising from the vehicular accident. The applicant is hapless mother of deceased Mayur Gawali. As per the Award passed on behalf of Tribunal, the appellant Insurance Company has deposited sum of Rs. 3,50,000/- approximately including statutory amount for filing first appeal. The applicant prayed for withdrawal of the compensation amount in this Court.
3. Mr. Chapalgaonkar, learned counsel for appellant – Insurance Company/respondent No. 3 in present application raised objection and submits that the deceased was unauthorized passenger in the offending vehicle, which was not at all permitted to carry passenger. There is every hope of success for the appellant-Insurance Company. Hence, he prayed not to nod in favour of applicant-claimant.
4. Considering the submissions advanced on behalf of both sides and reasons mentioned in the application, I find it justifiable to grant some sort of latitude to the applicant i.e. hapless mother of the

deceased in this case. During the course of argument, it was agreed to allow the applicant to withdraw total sum of Rs. 1,75,000/- from the amount deposited on behalf of the appellant -Insurance Company in this case. In such circumstances, there is no impediment to allow the application partly.

5. Accordingly, the application is partly allowed. The applicant is hereby permitted to withdraw sum of Rs. 1,75,000/- from the amount deposited in this court on furnishing undertaking to the satisfaction of Registrar (Judicial) of this Court to the effect that in case adverse situation, if any, arises after success of the appellant in the appeal, the amount withdrawn by her would be refunded within stipulated period as per requisite direction from this Court. Rest of the balance amount be deposited in the FDRs account in any Nationalized Bank initially for a period of two years or till decision of the appeal, whichever is earlier. The concerned Registrar of this Court to do the needful for disbursement of amount in favour of claimant as directed above.

5. Accordingly, civil application stands disposed of.

Sd/-
[K. K. SONAWANE]
JUDGE

MTK.