

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.931 OF 2017
IN
FIRST APPEAL NO.112 OF 2017

Samir Jagannath Lokhande
(Since deceased Through Legal Heirs
Smt. Vidya Samir Lokhande and Ors.)

...Applicants

vs.

The New India Assurance Company Ltd.

...Respondent/
Ori. Appellant

Mr. S.A. Shastry, for the Applicants.
Mr. S.M. Dange, for the Ori. Appellant

**CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.**

DATE : JUNE 08, 2017

P.C.:

- . Parties through their counsel.
2. Heard on the Civil Application No. 931 of 2017.
3. This is an application seeking withdrawal of the entire amount awarded to the Applicant vide the impugned award.
4. The claims Tribunal has awarded Rs. 83,53,000/- and odd with interest at the rate of 7% p.a. from the date of filing of the claim Petition till realization. The Tribunal has further ordered that the award amount shall be divided equally amongst the Applicants

and share of minor Applicant shall be kept in fixed deposit in any nationalized bank till he attains the age of majority.

5. The learned counsel for the Applicants/Claimants submit that the Applicants are in need of the amount and the said need has been detailed in the application which is supported by affidavit of Applicant.

6. The learned counsel for the Insurance Company has opposed the application. He submits that since the Insurance Company has also filed an Appeal challenging the award, the amount be not allowed to be withdrawn.

7. Having heard learned counsel for the parties, we are inclined to allow the Civil Application in part by directing the claims Tribunal to release the award amount of the Applicants except that of minor to the extent of Rs. 30 lacs which shall be as per the share of Rs. 10 lacs of each of the Applicants except the minor.

8. The amount shall be allowed to be withdrawn by taking an undertaking from all the three Applicants that in case the Appeal of the Insurance Company is allowed and the Applicants are required to redeposit the amount, they shall deposit back the same within three months.

9. Leave to amend the cause title of the First Appeal filed by the Insurance Company is granted. The amendment to be carried out within a week.
10. The Civil Application No. 931 of 2017 stands disposed of as such.
11. The First Appeal be listed along with First Appeal No. 394 of 2017 as per CMIS date.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)