

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 208 OF 2017
IN
FIRST APPEAL (STAMP) NO. 9459 OF 2015

United India Insurance Company Limited .. Applicant/Appellant
vs.
Latabai Prakash Patil & Ors. .. Respondents

Mr. R. Mehta i/b. KMC Legal Venture for Applicant / Appellant.
Mr. A. M. Shelke for Respondent Nos. 1 to 3.

CORAM : M. S. SONAK, J.
DATE: 27 JANUARY 2017

P.C :

- 1] Learned counsel for the parties hand in consent terms which are taken on record and marked as 'X' for purposes of identification.
- 2] By the impugned judgment and order the following directions were issued :-

"ORDER

- (i) The claim petition is allowed.*
- (ii) Both the opponents No. 1 and 2 jointly and severally pay compensation of Rs.12,75,000/- to the applicants together with simple interest thereon at the rate of 9% p.a. from the date of petition till realization of entire amount.*
- (iii) Out of above compensation amount, applicant No. 1 shall receive Rs.4,75,000/-. Out of her such share, amount of Rs.2,00,000/- be kept in F.D. in any nationalized bank for a period of one year and she shall be entitled to receive*

periodic interest accruing thereupon.

Remaining amount of Rs.2,75,000/- be paid to her by A/c payee cheque.

(iv) Applicant No. 2 shall receive Rs.4,00,000/- as her share out of compensation amount. Entire amount of Rs.4,00,000/- be kept in F.D. in any nationalized bank for a period of one year and she shall be entitled to receive periodic interest accruing thereupon.

(v) Applicant No. 3 shall receive Rs.4,00,000/- as her share out of compensation amount. Entire amount of Rs.4,00,000/- be kept in F.D. in any nationalized bank for a period of one year and she shall be entitled to receive periodic interest accruing thereupon.

(vi) The amount of interim compensation of Rs.50,000/- if already withdrawn by the applicants, be adjusted out of the said amount of compensation.

(vii) Court fee stamp be recovered from the applicants on enhanced compensation amount.

(viii) Award to follow accordingly."

3] As per the consent terms now handed in, the principal sum is reduced from Rs.12,75,000/- to Rs.8,30,000/-. Learned counsel for the parties explained to me that though the income of the deceased was held as Rs.7,658/- per month or Rs.91,896/- per annum, no deductions were made towards his personal expenses, as contemplated by Schedule II of the Motor Vehicles Act and the decision of the Hon'ble Apex Court in **Sarla Verma vs. Delhi Transport Corporation & Ors.**¹

¹ 2009 (6) SCC 121

4] In view of the aforesaid, there is no reason not to accept the modification made in respect of the principal sum. In paragraph 3 of the consent terms, it is nevertheless agreed that the total amount now payable to the claimants will be Rs.14,12,247/-.

5] In the consent terms, there is nothing said about the directions with regard to investment of the compensation awarded to original applicant nos. 2 and 3, who, on the date of the impugned judgment and order were of minor age. Learned counsel for the said applicants submits that they have attained majority and therefore the compensation due to them should be paid directly to them in lump sum.

6] According to me, such a request cannot be accepted. As otherwise, it is likely that the amount of compensation would be spent immediately for purposes which may not be necessarily in the interests of the original applicant nos. 2 and 3 who are now very recently stated to have attained majority.

7] Accordingly, out of the compensation of Rs.14,12,247/- now referred to in paragraph 3 of the consent terms, an amount of Rs.4,00,000/- each shall be invested in a fixed deposit in a

nationalized bank for a period of three years in the first instance. The original applicant nos. 2 and 3 shall however be entitled to receive the periodic interest accruing thereupon. After a period of three years, original applicant nos. 2 and 3 shall be entitled to apply to the MACT, Thane for variation by way of withdrawal of the entire deposited amount. Such application shall be considered on its own merits and in accordance with law.

8] Subject to the aforesaid, the consent terms are accepted and the appeal and the civil applications are disposed of accordingly.

9] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka