

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.104 OF 2017
IN
FIRST APPEAL NO.641 OF 2017

Smt.Jayashree A. Medshinge & Ors. ... Applicants

IN THE MATTER OF:

ICICI Lombard Insurance Co. Ltd. ... Appellant

Vs.

Smt.Jayashree A. Medshinge & Ors. ... Respondents

Mr.J.J. Bardeskar for the Applicants

Ms.Deepika Prabala i/b Res Juris for Appellant in FA.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: NOVEMBER 8, 2017

P.C.:

1. This application is moved for withdrawal of the amount, which is deposited by the respondent – insurance company, pursuant to the judgment and award dated 19.1.2016 passed by the learned Member, Motor Accident Claims Tribunal, Kolhapur, awarding compensation of Rs.1,13,95,000/- alongwith interest @ 9% p.a. The insurance company has deposited the entire amount alongwith the interest accrued thereon.

2. The learned Counsel for the applicants submits that the applicant Nos.1, 2 and 3 are widow and her two sons and applicant

Nos.4 and 5 are the old parents of the deceased. The learned Counsel for the applicants submits that the applicants are in need of money. Except the amount under No Fault Liability, no amount is received by the applicants till today. He submitted that applicant Nos.2 and 3 are taking education and they require money for their education.

3. Learned Counsel for the insurance company while opposing the application, submitted that the insurance company has a good case on merits. The offending vehicle was in a stationary position and on the side of the road and the deceased himself dashed on the rear side of the vehicle and died. She submitted that no amount is to be allowed to be withdrawn when the deceased himself was entirely negligent. She also submitted that FIR was filed by the police officer against the deceased.

4. Heard submissions. Perused the award. Applicant No.1 is a widow of the deceased. Applicant No.3 is a minor. Applicant Nos.4 and 5 are the parents of the deceased. In view of this, the application is allowed. The applicants are allowed to withdraw 50% of the amount alongwith interest accrued thereon as per their entitlement.

5. Application stands disposed of accordingly.

(MRIDULA BHATKAR, J.)