

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

928 CIVIL APPLICATION NO. 873 OF 2018 IN
FIRST APPEAL NO. 1937 OF 2016

SHAMALBAI RAJENDRA SONWANE AND ORS
VERSUS
ICICI LOMBARD GENERAL INSURANCE COMPANY LTD THR LEGALOFFICER

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Advocate for Appellant : Mr. Swapnil S. Patil
Adv. for Respondent 1 & 2 : Mr. P.C. Mayure

CORAM : K.K. SONAWANE, J.

DATE : 19th January, 2018.

PER COURT:

1] Heard learned counsel for the applicants and learned counsel for the respondent Insurance company. No one tuned up on behalf of MSRTC as well as respondent No.4 - owner of the vehicle.

2] Perused the application and other relevant documents. The matter pertains to the compensation under Motor Vehicles Act. The applicants are the parents of deceased Yadnesh, who was travelling during the relevant time by the MSRTC bus, bearing MH-20-8962. Unfortunately, the bus gave dash to one truck from its backside, in which deceased Yadnesh received fatal injuries and died in the vehicular accident. The parents filed the claim petition under the Motor Vehicles Act. The deceased was 11 years old student and considering all the relevant factors, the Tribunal awarded compensation to the tune of Rs.3,72,000/- to the claimants with interest. Simultaneously the Tribunal exonerated the appellant/Insurance company from the monetary liability. However, directions were given to pay the decretal amount first and then recover it from the owner. Being aggrieved by the same, the appellant Insurance company has preferred the present

appeal.

3] In such circumstances, it appears that the claimants have no concern with the matter in issue involved in the appeal. Therefore, there is no impediment to allow the applicants to withdraw the entire compensation amount deposited in this court by the appellant. It would not cause any injustice or prejudice to the appellant. In case the appellant succeeds in this appeal, whatever decretal amount paid to the applicants would be recoverable from the respondent owner of the offending vehicle. Moreover, by way of abundant precaution the applicants will be directed to furnish an undertaking for refund of amount in case of any contingency arises in this matter. In such circumstances, the application deserves to be allowed. Accordingly, the application stands allowed in terms of prayer clause (B). The applicants are permitted to withdraw entire decretal amount deposited in this court, on furnishing an undertaking that in case any contingency arises, the applicant would refund the entire decretal amount withdrawn by them, forthwith as directed by this court. The application is accordingly disposed of in above terms. Registry to do the needful for disbursement of amount in favour of applicants as directed above.

[K.K. SONAWANE]
JUDGE.

grt/-