

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2651 OF 2018
IN FAST/22732/2017

ANURADHA SHIVAJI CHINTE AND ORS
VERSUS
NATIONAL INSURANCE CO. LTD. THR. ITS AUTHORIZED
SIGNATORY, AURANGABAD AND ANR

...
Mr. N.D. Kendre, Advocate for applicants
Mr. A.B. Kadethankar, Advocate for respondent no.1
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 06-04-2018

ORDER :

1. Heard learned counsel for the parties.
2. Learned counsel for applicants submits that family of applicants is in dire need of compensation amount, as they are living virtually in penurious condition with loss of their earning hand. The tribunal has granted compensation to the tune of Rs.8,89,000/- along with interest thereon at the rate of 7.5% per annum from the date of application.
3. Learned counsel further submits that the same is not in tune with the demand made by claimants and is not in proportion of earning of the deceased. Family, for want of compensation, is

facing ignominy in society. Education of the minor children is to be taken care of apart from day to day living. Besides no-fault liability, no further amount has been received by the applicants. Accident has taken place in 2012. In the circumstances, learned counsel for applicants requests for withdrawal of the amount.

4. Learned counsel for appellant-insurance company purports to resist stating that compensation granted has been excessive and exorbitant and evidence may not be able to sustain the computation of income as has been done by the tribunal.

5. Having regard to aforesaid and particularly to that accident had taken place in 2012, and, since then, it is claimed earning hand of the family had been lost, claimants have been dependents and tribunal has given a finding in claimants' favour granting the compensation, it would be expedient to allow the application as under :-

I) Applicant no.1 may withdraw sum of Rs.2,00,000/- (Rs. Two Lakh) along with accrued interest thereon, subject to filing undertaking by her that the amount so withdrawn would be paid back / re-deposited by her in this court within a period of three months from date of decision

in the appeal, if the same goes against the applicants. Undertaking to be filed within a period of three weeks from today.

- II) Applicant no.1 also may withdraw sum of Rs.1,50,000/- (Rs. One Lakh Fifty Thousand) each, for applicants no.2 and 3 along with accrued interest thereon, upon filing similar undertaking to aforesaid effect on behalf of applicants no.2 and 3. As such, she would be able to withdraw aggregate sum of Rs.3,00,000/- along with accrued interest thereon on behalf of applicants no.2 and 3. Amount so withdrawn for applicants no. 2 and 3 will have to be invested by her in fixed deposit of a nationalized bank earning interest and she may be able to withdraw interest upon the deposits till applicants no. 2 and 3 become major. Interest being so withdrawn will be meant for applicants no. 2 and 3.
- III) Applicants no. 4 and 5 may withdraw Rs.1,00,000/- (Rs. One Lakh) each, with accrued interest thereon on furnishing undertakings by them that the amount so withdrawn be paid back / re-deposited by them in this court within a period of three months from date of decision

in the appeal, if the same goes against the applicants.
Undertakings to be filed within a period of three weeks
from today.

6. Civil application is accordingly disposed of.

[SUNIL P. DESHMUKH]
JUDGE

arp/