

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1653 OF 2018
IN FAST/20941/2017

KAUSAR BEGUM YUNUS KHAN AND ORS
VERSUS
PRABHAKAR BAPURAO GITE AND ANR

...
Mrs. A.N. Ansari, Advocate for applicants
Mr. U.S. Malte, Advocate for respondent no.2
...

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

ORDER :

1. Heard learned counsel for the applicants and learned counsel for the appellant - insurance company.
2. Learned counsel for the applicants submits that the only earning hand of the family had been lost in accident which took place in September, 2013 and since then, the applicants have been living in penurious conditions. Living day to day life has become very difficult. Applicants have suffered lot of difficulties including ignominy for want of money for expenses.
3. Learned counsel further points out that on the basis of evidence, as has been adduced, the tribunal has granted compensation to each of the applicants no. 1 to 4, Rs.5,00,000/-

and applicant no. 5 - mother of deceased has been granted Rs.2,00,000/-. Amount has been directed to be paid along with interest. Learned counsel submits that apart from day to day living, other aspects like education and well being of minor children is also at stake. She, therefore, urges for withdrawal of the amount.

4. Learned counsel Mr. Malte appearing for appellant - insurance company submits that income considered of the deceased had been rather too steep and the evidence may not be able to bear the computation as has been considered by the tribunal. He submits that the record would not sustain the findings rendered by trial court. In the circumstances, he submits that expeditious disposal of the appeal may be proper.

5. Having heard learned counsel for the applicant as aforesaid, particularly considering that the accident had taken place in September, 2013 and since then beyond the no-fault liability amount, applicants have not received any amount of compensation. Amount of compensation granted by tribunal is deposited along with interest in this court. Need of the family is discernible from the circumstances.

6. In the circumstances, having regard to the same, it would be expedient that the applicants be allowed to withdraw 50% of the amount deposited in this court along with interest accrued thereon, on furnishing of undertaking by applicants 1 and 5 and also by applicant no.1 on behalf of applicants no. 2 to 4, that the amount so withdrawn be paid back / re-deposited by them in this court within a period of three months from date of decision in the appeal, if the same goes against the applicants. Undertaking to be filed within a period of three weeks from today. 50% amount being withdrawn shall be shared by applicants in proportion of their apportionment in the award by motor accident claims tribunal.

7. Applicant no.1 also may withdraw the amount as aforesaid on behalf of applicants no.2 to 4, upon filing undertaking that the amount so withdrawn for applicants no. 2 to 4 will 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 to 4 become major. Interest being so withdrawn will be meant for applicants no. 2 to 4.

8. Application is accordingly disposed of.

[SUNIL P. DESHMUKH]
JUDGE

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