

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 4133 OF 2018
IN
FIRST APPEAL No. 4566 OF 2017

Smt. Anita W/o Arjun Bachate and others

...APPLICANTS

VERSUS

Krushna Bhujangrao Chavan and others

...RESPONDENTS

Mr Ravindra V. Gore, Advocate for applicants.
Mr V.D. Hon, Advocate for respondent No.1

CORAM : SUNIL P. DESHMUKH, J.

DATE : 6th April 2018

ORDER :

Heard learned Counsel for the parties.

2. Learned Counsel for applicants submits that applicants are widow, minor children and parents of the deceased. The deceased had been earning member in the family. They have been deprived of his earning due to his death in motor vehicle accident. They are facing economic difficulties. Applicants are in dire need of compensation amount. Learned Counsel further submits that only half of the amount is directed to

be deposited in this Court and stay has been granted to operation of the judgment and award. He, therefore, requests to allow applicants to withdraw deposited amount.

3. Learned Senior Counsel Mr Hon, appearing for trailer owner, submits that there was complete negligence on the part of deceased while driving motorcycle and that the trailer owner cannot be held liable to bear compensation for fault of parking the Tractor alongwith Trailer. He submits that there is sufficient evidence showing that Trailer owner cannot be held liable for payment of compensation. He points out that Insurance Company has already been exonerated from the liability of payment of compensation. He submits, if the amount is allowed to be withdrawn, it will be difficult for him to recover the same in case decision in appeal goes against applicants' interest.

4. Having regard to that accident took place way back in the year 2013 and and it is not seriously disputed that deceased had been earning member in the family and the fact that, applicants are facing financial difficulties due to loss of earning of deceased, in the circumstances, it will be expedient to allow applicants to withdraw the amount, as follows.

(I) Applicant No.1 may withdraw a sum of Rs. 2,00,000/-

(Rs. Two lacs only) and applicants No.5 and 6 may withdraw Rs. 80,000/- (Rs. Eighty thousand only) each, from the amount deposited alongwith accrued interest thereon, on furnishing an undertaking applicants shall pay back/re-deposit the amount in this Court being withdrawn under this order, within a period of three months from the date of decision in appeal, if the decision goes against their interest. Undertaking to be filed within a period of three weeks from today.

(II) Rest of the amount be invested in fixed deposit and in the names of minor applicants No. 2, 3 & 4 jointly, under the guardianship of applicant No.1, in a nationalized bank earning interest and the applicants shall furnish copies of fixed deposit receipts to this Court.

5. Application is, accordingly, disposed of.

**(SUNIL P. DESHMUKH)
JUDGE.**

Madkar