

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

15 CIVIL APPLICATION NO. 6609 OF 2018
IN FA/2198/2015

TULSABAI RAMBHAU DHAWALE AND OTHERS
VERSUS
HDFC ERGO GENERAL INSURANCE CO. LTD. THR ITS BRANCH MANAGER,
AURANGABAD AND ANR

...
Advocate for Applicants : Mr. Narayan B. Narwade
Advocate for Respondent No.1 : Mr. S.G. Ghapalgaonkar.

CORAM : K.K. SONAWANE, J.
DATE : 5th JUNE , 2018.

PER COURT:

1] Heard learned counsel for the applicant and learned counsel Shri Chapalgaonkar for respondent No.1. No one else turn up for respondent No.2.

2] The present application is filed seeking permission to withdraw the amount of compensation deposited in this court by the appellant insurance company.

3] It has been submitted on behalf of Mr. Chapalgaonkar, Advocate that the driving licence produced by the concerned driver of the vehicle was found fake and fabricated one. Report of the RTO indicate that no such licence was issued in favour of driver of the offending vehicle. Therefore, the appellant insurance company is not liable to make payment of compensation, as determined by the Tribunal. The appellant has every hope of success in the appeal and, therefore, he opposed the application for withdrawal of amount on behalf of claimants.

4] Admittedly, the deceased died following vehicular accident. It has been alleged that the offending goods truck gave dash to the moped Scooty of the deceased resulting into his death. In that view of the matter, I do not find any impediment to allow the applicants who are the legal heirs of the deceased Rambhau for withdrawal of some part of compensation deposited in this court. It has been submitted that the total sum of Rs. 3,95,000/- has been deposited in this court including the statutory amount for filing the appeal. The applicant No.1 is the widow of deceased, whereas, applicant Nos. 2 and 3 are the sons of deceased Rambhau.

5] In view of the aforesaid circumstances, there is no impediment to allow the applicants, atleast, to withdraw lump sum amount of Rs. 3,00,000/- towards compensation deposited in this court, which would subserve the purpose in the interest of justice. Hence, application stands partly allowed. The applicants are permitted to withdraw a sum of Rs. 3 Lakhs from the amount deposited by the appellant Insurance company in this court subject to condition that the applicant shall file an undertaking to the effect that in case any adverse situation arises, they would refund the amount forthwith as per directions of this court. It is hereby further directed that out of the amount of Rs. 3 Lakhs, Rs. 1,50,000/- be deposited in FDR account in the name of applicant No.1 Tulsabai wd/o. Rambhau Dhawale, for a period of 5 years or till the decision of the appeal, whichever is earlier. She is entitled to get the amount of interest that would be accrued on it. Rest of the amount of Rs. 1,50,000/- be disbursed in favour of the applicant Nos. 1 to 3 i.e. Rs. 50,000/- each. Registry to do the needful for disbursement of the amount as directed above in favour of the applicants. Civil application is disposed of accordingly.

[K.K. SONAWANE]
JUDGE.