

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

CIVIL APPLICATION NO. 3763 of 2018
IN
FIRST APPEAL NO. 5048 of 2017

Pushpalata Wd./o Vinay Bulbule and others **...APPLICANT**

VERSUS

Rafique S/o Shafiuddin Siddiqui and another **...RESPONDENTS**

Mr Girish B. Kulkarni, Advocate for applicants
Mr Mohit Deshmukh, Adv., holding for Mr. S.G. Chapalgaonkar,
Advocate for respondent No.2

CORAM : SUNIL P. DESHMUKH, J.

DATE : 6th April 2018

ORDER :

Heard learned Counsel for the applicants. He submits that due to demise of Vinay Bulbule, who was husband of applicant No.1, father of applicant No.2 and son of applicant No.3, in motor vehicle accident dated 26th March 2011, their bread earner has been taken away and since then the family has been facing bad economic conditions. Their claim petition had been granted to the extent of Rs. 10,55,000/-. Entire amount alongwith accruals thereon has been deposited in this Court by

the appellant/insurer. Family of the applicants is in dire need of the amount for day-to-day maintenance and livelihood and also for medical treatment of applicant No. 3, who is old aged.

2. Learned Counsel for the respondent – appellant/Insurance Company submits that erstwhile Insurance Company, whose insurance had been taken over by appellant/Insurance Company, has not been made a party despite such deficiency being pointed out during the trial. Accident relates to a period before the insurance policy had been taken over by the appellant/Insurance Company and, as such, the appellant/Insurance Company would not be saddled with the liability of payment of compensation of applicants.

3. Thus, the learned Counsel for the applicants submits that although the issue has been framed and had been dealt with by the Tribunal, the Tribunal has elaborately recorded finding and the appellant/Insurance company was held liable to pay compensation to applicants. He submits that applicants are in dire need of amount. As on the date, the decision by the Tribunal is in favour of applicants and they may not be deprived of its benefit and they are in dire need of the same.

4. In the circumstances, the applicants are allowed to withdraw half of the amount deposited with accrued interest thereon, in the same proportion, as apportioned under the award by the Tribunal and be given treatment accordingly, on furnishing undertaking to the effect that in case decision in appeal goes against their interest, they would deposit the amount so withdrawn, within three months from the date of such decision. Undertaking to be filed within a period of three weeks from today. Copies of fixed deposit receipts be furnished to the Court. Interest over fixed deposit amounts may be allowed to be withdrawn by respective applicants.

5. Civil Application is disposed of accordingly.

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

Madkar