

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

1003 CIVIL APPLICATION NO. 7174 OF 2018
IN FA/337/2018

DAIVSHALA DNYANESHWAR GIRIAND OTHERS
VERSUS
RELIANCE INSURANCE CO. LTD, THR ITS BRANCH MANAGER AND
ANOTHER

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Advocate for Applicants : Shri Agrawal Pavankumar S.
Advocate for respondent no.1: Shri S. G. Chapalgoankar

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CORAM: V.L. ACHLIYA, J.

DATE: 03.08.2018

PER COURT :

1] The applicants have moved this application for withdrawal of the amount deposited by the appellant – Insurance Company. In terms of the award, the amount of Rs.10,31,084/- is claimed to be deposited by the appellant – Insurance Company.

2] Heard learned counsel for the applicants and the appellant – Insurance Company.

3] Learned counsel for the appellant – Insurance Company opposed the application with a contention that the permit to ply the vehicle as a contract carriage had

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expired when the vehicle met with the accident, so also the driver of the vehicle was not holding valid driving license to ply the vehicle.

4] Learned counsel for the applicants submits that the contentions raised by the appellant – Insurance Company were duly considered by the Tribunal while passing the order and further submits that the appellant has no case to succeed in the appeal. He further submits that as against the income of the deceased claimed at the rate of Rs.8,000/- per month, the Tribunal has assessed the compensation only at the rate of Rs.5,000/- per month. He further submits that no addition towards future prospects was taken into consideration while assessing the compensation.

5] Considering the overall facts of the case in the light of the submissions advanced as well as the grounds raised in the appeal, I am of the view that passing of following order would meet the ends of justice :-

O R D E R

a] Subject to outcome of the appeal, the applicants are permitted to withdraw the amount of Rs.4,00,000/- out of the amount deposited by

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the appellant. Out of the amount of Rs.4,00,000/-, amount of Rs.3,00,000/- be paid to the applicant no.1 for herself and her minor son the applicant no.2, and Rs.1,00,000/- be paid to applicant no.3 – the mother of the deceased by transferring the amounts in their respective savings bank accounts on their furnishing undertakings to the satisfaction of the Registrar (Judicial) to the effect that in the event the award is set aside or modified and they are required to re-deposit the amount, they shall deposit the said amount within twelve weeks from the date of such order.

b] After paying the amount of Rs.4,00,000/- to applicants as above, the balance amount be invested in a fixed deposit initially for a period of three years with State Bank of India, High Court Branch, Aurangabad, subject to renewal till the disposal of the appeal or further orders from this Court, whichever is earlier.

c] Interest accrued over the amount invested

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in fixed deposit be paid to the applicant no.1 after every three months by transferring the amount of interest in the applicant no.1's savings bank account to be utilized for the her own maintenance as well as maintenance of the minor son – applicant no.2 and the applicant no.3 – the mother of the deceased.

d] The application is disposed of in the aforesaid terms.

(V.L. ACHLIYA, J.)