

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

30 CIVIL APPLICATION NO. 5452 OF 2018
IN FA/852/2018 WITH CA/2711/2018 IN FA/852/2018

INDUBAI ARUN NAIKWADE AND ORS
VERSUS
RELIANCE GENERAL INSURANCE CO. LTD., THR ITS BRANCH MANAGER,
AURANGABAD AND ORS

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Advocate for Applicants : Mr. Mohit R.Deshmukh
Adv.for Respondents: Mr. V.P. Raje.

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CORAM : K.K. SONAWANE, J.

DATE : 2ND JULY, 2018.

PER COURT:

1] Heard learned counsel for the applicants and respondent- Insurance company. Perused the application. The appellant/Insurance company has already deposited in all, a sum of Rs. 37.5 Lakhs approximately towards compensation, pursuant to the award passed by the learned Tribunal. The claimants being legal heirs of deceased Arun Naikwade are seeking permission to withdraw the amount.

2] The learned counsel Shri Raje appearing for the Insurance company raised objection and submits that the appeal came to be filed on the ground of composite negligence on the part of vehicles involved in the accident. In such circumstances, it would not proper to allow the claimants for withdrawal of the entire sum of compensation deposited by insurance company in this court.

3] In view of nature of subject matter and the grounds raised in the appeal, there is no impediment to allow the claimants/applicants for withdrawal of atleast 75% of the amount deposited in this court, which would accrue to lump-sum amount of Rs. 28 Lakhs. It would not cause any injustice or prejudice to the appellant/insurance company. In contrast, it would sub-serve the purpose in the interest of justice. The interest of the appellant/Insurance company could be protected on imposing certain conditions on the applicants for refund of the amount

in case of success of the appellant insurance company in the appeal.

4] Accordingly, the application stands allowed. The applicants are permitted to withdraw lump-sum amount of Rs. 28 Lakhs from the amount of compensation deposited in this court, subject to condition that the applicants shall furnish an undertaking to refund the amount so withdrawn in case any contingency arises in the appeal.

5] It is stipulated that out of total sum of Rs. 28 Lakhs allowed to be withdrawn by the applicants, the applicant No.1 - Indubai wd/o. Arun Naikwade be permitted to withdraw an amount of Rs. 8 Lakhs, subject to furnishing undertaking as aforesaid. It is further directed that the amount of Rs. 6 Lakhs each be invested in the name of applicant No.2 Nilima and applicant No.4 Deepali for a period of six years or till settlement of their marriage, whichever is earlier. Moreover, the amount of Rs. 6 Lakhs be invested in the name of applicant No.3 Mangesh for a period of six years. The rest of the amount of Rs. 2 Lakhs be allowed to be withdrawn by applicant No.5 Bakubai subject to furnishing undertaking as aforesaid.

6] The balance 25% of decretal amount remained in this court be invested in fixed deposit receipt in any nationalized bank for a period of two years or till decision of the appeal on merit with liberty to renew the same, in future if required.

7] Accordingly, the application stands disposed of in above terms . Registry to do the needful for disbursement of the amount as directed above.

[K.K.SONAWANE, J]

grt/-