

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

**CIVIL APPLICATION NO. 5674 OF 2018
IN
FIRST APPEAL NO. 242 of 2018**

Sheetal Vilas Sanap and others

...APPLICANTS

VERSUS

Rahul Ananda Adigare and another

...RESPONDENTS

Mr V.S. Bedre, Advocate for applicants.

*Mr S.S. Dargad, Advocate, holding for Mr S.G. Chapalgaonkar,
Advocate for respondent No.2*

CORAM : SUNIL P. DESHMUKH, J.

DATE : 27th April 2018

ORDER :

Heard learned Counsel for the parties.

2. It emerges that Vilas Maruti Sanap, who was husband of applicant No.1, father of applicants No. 2 and 3 and son of applicant No.4, died in motor vehicle accident in 2015. He was earning member of the family. Because of his death, the family has not been in a position to earn livelihood. Besides aforesaid, lot of expenses are to be incurred over education of minor children and medical treatment to be given to applicant

No.4. Learned Counsel for the respondent, however, contends that the deceased had been an agriculturist and as such there is dispute in respect of quantum of compensation. He further contends that the family possesses business of milk supply. Although this is so submitted, there is no dispute that the deceased had been only working person including agricultural work. Other persons in the family are not in a position to carry on avocation for earning as on the date. In the circumstances, it would be expedient to allow applicants to withdraw 75% of the amount deposited in this Court with accrued interest thereon, subject to conditions mentioned below.

3. Learned Counsel for applicants, on instructions, submits that amount may be allowed to be transferred to the executing Court at Sangamner. The amount deposited in this Court be transferred to the executing Court.

4. Thus, it would be expedient to allow the application as follows:

(I) The executing Court to allow withdrawal of 50% amount of amount deposited in this Court and transferred to executing Court alongwith accrued interest thereon, on applicants' furnishing undertaking to the effect that in the event First

Appeal is decided against interest of the applicants, they shall pay back/re-deposit the amount in the executing Court being withdrawn under this order, within a period of four weeks of passing such order. Undertaking on behalf of the minors be furnished by their mother.

- (II) Further 25% of the deposited amount alongwith accruals thereon may be allowed to be withdrawn subject to furnishing solvent security to the satisfaction of the executing of the Court.
- (III) Such withdrawals shall be subject to the same treatment as directed in operative part of the Award by the Tribunal in Motor Accident Claim Petition No. 37 of 2015. Copies of fixed deposit receipts be furnished to the Court.
- (IV) Applicant No.1/mother of minor applicants No.2 and 3 be allowed to withdraw interest over the amounts invested in fixed deposit receipts in the name of minor applicants No.2 and 3 for their expenses.

5. Civil Application is, accordingly, disposed of in above terms.

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

Madkar