

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

937 CIVIL APPLICATION NO. 5211 OF 2018
IN
FIRST APPEAL STAMP NO. 5656 OF 2018

KOMAL SANTOSH VIDHATE & ORS.
VERSUS
M/S SARGAM RETAILS PVT. LTD. & ANR.

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Mr. B.K.Patil, Advocate for Applicants.
Mr. M.M.Ambhore, Advocate for R – 2.

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CORAM : K.K.SONAWANE, J.
DATE : 28th JUNE, 2018

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ORAL ORDER :

1. Heard Mr. B.K.Patil, learned counsel for the applicants, Mr. Wani holding for Mr. A.S.Bajaj, learned counsel for respondent No. 1 – owner of the offending vehicle and Mr. M.M.Ambhore, learned counsel for respondent No. 2 - Insurance Company. Perused the application and the Award passed by the Motor Accident Claims Tribunal, Ahmednagar in M.A.C.P. No. 527/2013.

2. Admittedly, the present application is moved for seeking permission to withdraw the amount of compensation to the tune of Rs. 17,98,042/- deposited in this Court arising from the vehicular accident resulted into death of deceased Santosh Vidhate. The applicants are the widow, children and parents of the deceased Santosh Vidhate. The applicants filed the claim petition in the year 2013 for the loss caused to the family due to the death of deceased Santosh. Learned Tribunal appreciated the facts and circumstances and allowed the claim petition partly. Pursuant to the Award, the appellant New India Assurance Company deposited

the entire decretal amount with interest as referred above in this Court. The claimants are seeking permission to withdraw the same.

3. In view of nature of the subject matter and the circumstances on record, there is no impediment to allow the widow, children and parents of deceased Santosh for withdrawal of decretal amount deposited in this Court. It would sub-serve the purpose in the interest of justice. They can not be precluded from withdrawing the compensation amount deposited in this Court only on the ground that both the owner and insurer of the offending vehicle preferred the Appeal. The grounds of Appeal raised by the appellants do not affect the right of the applicants to receive the compensation amount. However, the claimants be permitted to withdraw the amount with certain conditions to protect the interest of the respondent/appellant.

4. Hence, the application stands allowed and the applicants are permitted to withdraw the entire decretal amount with interest accrued thereon deposited in this Court subject to condition that the applicants shall furnish undertaking that they would return the amount in case of any contingency arises in the Appeal. It is stipulated that out of the sum of decretal amount to the tune of Rs. 17,19,042/-, the sum of Rs. 6 Lakhs each be invested in the name of minor applicant No. 2 Anjali Santosh Vidhate and applicant No. 3 Kalyani Santosh Vidhate till they attained the age of majority. Rest of the balance decretal amount be disbursed amongst the applicant Nos. 1,4 and 5 in following manner.

[i] Applicant No. 1 Komal Santosh Vidhate - Rs. 2 Lakhs.

- [ii] Applicant No. 4 Bansi Haribhau Vidhate & - Rs. 1.50 Lakhs
Applicant No. 5 Ashabai Bansi Vidhate each.

5. Accordingly, the application stands disposed of in above terms. Registry to do the needful in the disbursement of the amount amongst the applicants.

[K.K.SONAWANE]
JUDGE

KNP/C.A. 5211.2018 in F.A. St. 5656.2018