

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

944 CIVIL APPLICATION NO. 7025 OF 2018
IN FA/87/2017

JAYASHREE RAJESH UPLIKAR (KULKARNI) AND ORS
VERSUS
CHHOTUSINGH SANDUSINGH RAJPUT AND ANR

...
Advocate for Applicants : Mr. S. S. Wagh
Adv. for Respondent No. 2 : Mr. Ranjana D. Reddy
...

CORAM : K.K. SONAWANE, J.

DATED : 15th JUNE, 2018.

Order :-

1. Heard learned counsel for the applicant and respondent No. 2 MSRTC. Despite service, no one else turned up on behalf of respondent No. 1-driver of the offending vehicle.

2. The appellant - MSRTC deposited in all Rs. 61,00,000/- (Rs. Sixty One Lakhs) approximately towards the compensation amount granted by the learned Tribunal. Applicant No. 1 being widow, applicants No.2 and 3 are children and applicant No. 4 is mother of the deceased Rajesh Uplikar (Kulkarni) filed the present application seeking permission to withdraw the decretal amount deposited in this Court.

3. The learned counsel for the appellant raised objection and submits that the Tribunal did not appreciate the income of the deceased in its proper perspective and granted exorbitant and excessive compensation amount. Therefore, the learned counsel prayed to list the appeal for final hearing on merit at the earliest

instead of permitting to withdraw the amount.

4. Learned counsel for applicants submits that they are in need of money due to untimely death of earning member of their family. The applicants are suffering hardship. Therefore, he prayed to grant permission for withdrawal of amount deposited in this Court towards compensation payable to the claimants.

5. Having given anxious consideration to the arguments advanced on behalf of both side, I find it justifiable and reasonable to allow the applicants to withdraw Rs. 30,00,000/- (Rs. Thirty Lakhs) from the amount of Rs. 61,00,000/- (Rs. Sixty One Lakhs) approximately deposited in this Court towards compensation by the appellant - MSRTC. It would sub-serve the purpose in the interest of justice. Hence, application deserves to be allowed to that extent.

6. Accordingly, the application stands partly allowed. The applicants are permitted to withdraw the total lump sum of Rs. 30,00,000/- (Rs. Thirty Lakhs) from the amount deposited in this Court subject to condition of furnishing undertaking to the effect that applicants would refund the amount so withdrawn, in case any adverse situation arises in the appeal. It is stipulated that out of Rs. 30,00,000/- (Rs. Thirty Lakhs), the amount of Rs. 5,00,000/- (Rs. Five Lakhs) be deposited in the FDR account in the name of minor applicant No. 2 Prasad Rajesh Uplikar (Kulkarni) and amount of Rs. 10,00,000/- (Rs. Ten Lakhs) be deposited in the FDR Account in the name of minor applicant No. 3 Khushi Rajesh Uplikar (Kulkarni) in any Nationalized Bank till both attain the age of majority. The amount of Rs. 5,00,000/- (Rs. Five

Lakhs) be paid to respondent No. 4, mother of the deceased Rajesh and the balance amount of Rs. 10,00,000/- (Rs. Ten Lakhs) from Rs.30,00,000/- (Rs. Thirty Lakhs) be disbursed in favour of applicant No. 1-wife of the deceased as mentioned above. However, rest of the remaining decretal amount deposited in this Court be invested in the FDR Account in any Nationalized Bank for a period of two years or till decision of the appeal, whichever is earlier with liberty to renew the same, if required. The Registry to take requisite steps for disbursement of the amount.

7. The Civil application stands disposed of in above terms. No order as to costs.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK