

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

943 CIVIL APPLICATION NO. 6560 OF 2018
IN FAST/28347/2017

YASMINBEGUM MOHAMAD SHAHEBAJ AND ORS
VERSUS
THE DIVISIONAL MANAGER, M.S.R.T.C. BEED DEPOT, BEED AND ANR

...
Advocate for Applicants : Mr. S.S. Kazi
Adv. for Respondents No. 1 & 2 : Mr. S.R. Bagal

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CORAM : K.K. SONAWANE, J.

DATED : 15th JUNE, 2018.

Order :-

1. Heard learned counsel for applicants and learned counsel for respondent No. 1. Despite service, no body else turned up on behalf of respondent No. 2.

2. This is an application seeking permission for withdrawal of the decretal amount deposited in this Court. It has been contended that respondent - Maharashtra Road Transport Corporation (for short "MSRTC") has deposited in all Rs.36,00,000/- (Rs. Thirty Six Lakhs) towards compensation as directed by the learned Tribunal.

3 Learned counsel for respondent - MSRTC raised objection and submits that the learned Tribunal did not consider the evidence on record in its proper perspective and granted exorbitant and excessive compensation without taking into consideration the income of the deceased. Learned counsel for respondent - MSRTC fervidly contends that instead of granting permission to the applicants for withdrawal of

the amount, list the appeal for final hearing on merit at the earliest.

4. Learned counsel for applicant submits that applicant No. 1 is widow, applicant No. 2 is son, whereas applicants No. 3 and 4 are the old parents of deceased Mohmad Shahebaj. They all 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 the amount deposited in this Court as 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 some part of the compensation amount deposited in this Court. The Tribunal has awarded in all Rs. 72,39,040/- (Rs. Seventy Two Lakhs Thirty Nine Thousands and Forty) with interest as compensation amount. But, in view of directions of this Court the appellant-Insurance Company has deposited only 50% of the amount awarded by the Tribunal. Therefore, considering the objections raised in the appeal, it would be justifiable to allow the total sum of Rs. 25,00,000/- (Rs. Twenty Five Lakhs) to be withdrawn on behalf of applicants-original claimants. It would sub-serve the purpose pending the appeal. 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. 25,00,000/- (Rs. Twenty Five Lakhs) from the amount deposited in this Court subject to condition of furnishing the 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. 25,00,000/- (Rs. Twenty Five 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 Mohamad Sahjeb S/o Mohamad Shahaebaj, in any Nationalized Bank till he attains age of majority. Rest of the balance amount of Rs. 20,00,000/- (Rs. Twenty Lakhs) be disbursed in favour of applicants No. 1, 3 and 4 (original claimants) as mentioned above. However, remaining amount deposited in this Court towards compensation 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