

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

33 CIVIL APPLICATION NO. 7733 OF 2018
IN FAST/39131/2017

RADHA RAMESHWAR KHARAT AND ORS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR ITS AUTHORIZED SIGNATORY S.S.
MAKHARE, AURA

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Advocate for Applicants : Mr. Babasaheb V. Dhage
Adv. for Respondent 1 : Mr. M.M. Ambhore
Adv. for Respondent 2 : Mr. M.R. Sonawane
Adv. for Respondent 5 : Mr. S.V. Kulkarni

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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. 12,86,726/- towards compensation, pursuant to the award passed by the learned Tribunal. The claimants being legal heirs of deceased Rameshwar are seeking permission to withdraw the amount.

2] The learned counsel Shri Ambhore 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 3 vehicles involved in the accident. In such circumstances, it would not be 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. 10 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 can 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. 10 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deposited in this court, subject to condition that the applicants shall furnish an undertaking to refund the amount so withdrawn in case any contingency arises in the appeal.

5] It is directed that out of Rs. 10 Lakhs allowed to be withdrawn by the applicants, Rs. 3 Lakhs each be invested in the name of minor daughter applicant No.2 Anjali d/o. Rameshwar Kharat and applicant No.4 Anuja d/o. Rameshwar Kharat till settlement of their marriage or for a period of 7 years, whichever is earlier.

6] An amount of Rs. 1,50,000/- be invested in the name of minor applicant No.3 Yuvraj @ Abhijeet s/o. Rameshwar Kharat, till he attains the age of majority.

An amount of Rs. 50,000/- each be paid to the applicant No.5 Maroti s/o. Bapuna Kharat and applicant No.6 Laxmi w/o. Maroti Kharat.

Rest of the balance amount of Rs. 1,50,000/- be paid to the widow - applicant No.1 Radha wd/o. Rameshwar Kharat.

The cheques for aforesaid amounts be disbursed in favour of the applicants separately.

7] The balance decretal amount be invested in fixed deposit in any nationalized bank for a period of two years initially with liberty to renew the same till disposal of the appeal.

8] Accordingly, the application stands disposed of in above terms by apportioning Rs.10 Lakhs in aforesaid manner. Registry to do the needful for disbursement of the amount as directed above.

[K.K.SONAWANE, J]

grt/-