

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.7979/2018

IN

FIRST APPEAL NO.1537/2018

Swati Michel Shirsath & another. ...Applicants..

Versus

New India Assurance Company Ltd.,

Through its Branch Manager & another.

...Respondents..

.....

Shri V.S. Badakh, Advocate for applicants.

Shri Mohit Deshmukh, Advocate h/f Shri S.G.
Chapalgaonkar, Advocate for respondent no.1.

CORAM: V.L. ACHLIYA, J.

DATE: 18.07.2018

PER COURT :

1] Heard learned counsel for the applicants and the appellant – Insurance Company. Perused the impugned award passed by the Tribunal.

2] The applicant no.1 is the wife and the applicant no.2 is the minor son of the deceased, who died in a motor accident. The applicants have moved this application to withdraw the amount of Rs.41,08,440/- deposited by the appellant – Insurance Company towards the award passed by the Tribunal, which is impugned by

- 2 -

way of appeal by the appellant – Insurance company.

3] Learned counsel for the applicants submits that the applicants have no independent source of income to maintain themselves. The applicant no.1 has borrowed money from relatives to meet the expenses. She is required to repay the amount borrowed from her relatives.

4] Learned counsel for the appellant – Insurance Company submits that the appellant has a good case to succeed in the appeal.

5] On due consideration of the submissions advanced in the light of overall facts of the case and the grounds raised in the appeal, I am of the view that passing of following order would meet the ends of justice :-

O R D E R

A] The application is partly allowed.

B] The applicant no.1 is permitted to withdraw the amount to the extent of Rs.5,00,000/- out of the amount of Rs.41,08,440/- deposited by the appellant – Insurance Company on furnishing usual undertaking before the Registrar (Judicial) that in the event of order passed by this Court to refund /

- 3 -

redeposit the said amount, the applicant no.1 shall deposit the same within three months from the date of order.

C] On furnishing the undertaking, the amount of Rs.5,00,000/- be paid to the applicant no.1 by transfer of amount in her savings account (as per particulars of account to be furnished by the applicant no.1) by way of electronic transfer through RTGS / NEFT or any other permissible mode of transfer of funds.

D] After making the payment of Rs.5,00,000/- to the applicant no.1, the remaining amount shall be invested in a fixed deposit with State Bank of India, High Court Branch, Aurangabad, initially for a period of three years with standing instructions to reinvest the amount till disposal of appeal.

E] The amount of interest accrued over the amount invested in fixed deposit shall be paid to the applicant no.1 till the applicant no.2 attains the age of majority for her own maintenance as well as maintenance of the

- 4 -

applicant no.2.

F] The amount of interest accrued shall be credited to the savings account of the applicant no.1 after every three months by electronic transfer / RTGS / NEFT.

G] The civil application is disposed of in the aforesaid terms.

H] All concerned to act upon authenticated copy of this order.

(V.L. ACHLIYA, J.)