

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

919 CIVIL APPLICATION NO. 7902 OF 2018
IN FA/725/2018

PANCHSHILA SANTOSH SALWE AND ORS
VERSUS
THE UNITED INDIA INSURANCE CO. LTD., THR ITS BRANCH MANAGER,
PARBHANI AND ANR

...
Advocate for Applicants : Mr. P.S. Agrawal
Adv. for Respondent No. 1 : Mr. Suraj R. Bagal

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CORAM : K.K. SONAWANE, J.
DATED : 4th JULY, 2018.

Order :-

1. Heard Mr. Agrawal, learned counsel for applicants and Mr. Bagal, learned counsel for respondent No. 1- Insurance Company. Perused the application.
2. Present application is moved by the applicants-original claimants seeking permission for withdrawal of the decretal amount deposited in this Court. It has been submitted that the appellant - Insurance Company has deposited in all Rs. 20,35,670/-(Rupees Twenty Lakhs Thirty Five Thousand Six Hundred Seventy only) towards compensation as per directions of the learned Tribunal. The applicants are widow, children and parents of the deceased Santosh Salwe, who met with an accident.
3. Mr. Bagal, learned counsel for appellant - Insurance Company/respondent No. 1 herein, raised objection and submits that the appellant -Insurance Company has preferred appeal on the ground of contributory negligence on the part of deceased, who was driving the motor bike at the relevant time of accident. He has also pointed out that the Tribunal has committed error while determining the compensation amount by applying correct multiplier in this case. The circumstance of income of the deceased was not properly considered. Therefore, appellant – Insurance Company has every hope of success in the appeal. Hence, he requested not to allow the applicants for

withdrawal of the amount.

4. I have given anxious consideration to the arguments advanced on behalf of both sides and attending circumstance on record. There is no impediment to allow the applicants for withdrawal of 50% of the decretal amount deposited in this Court. It would be unjust and improper to preclude the claimants from getting fruits of the award which came to be passed in the year 2017. The applicants are pursuing the petition for compensation since 2015. In such circumstances, application deserves to be allowed.

5. Accordingly, application stands partly allowed. The applicants are permitted to withdraw lump sum amount of Rs.10,00,000/- (Rupees Ten Lakhs) from the total sum deposited in this Court by the appellant-Insurance Company subject to condition that the applicants shall furnish undertaking that they would refund the entire decretal amount so withdrawn, in case, any contingency arises in the appeal. It is further stipulated that out of Rs.10,00,000/- (Rupees Ten Lakhs) permitted to be withdrawn, amount of Rs. 2,50,000/- (Rupees Two Lakhs Fifty Thousand) each, be invested in the name of minor applicant No. 2 Aakanksha d/o Santosh Salwe and applicant No. 3 Harsh S/o Santosh Salwe in any Nationalized Bank till they attain majority. Moreover, from the remaining amount of Rs.5,00,000/-(Rupees Five Lakhs), Rs. 3,00,000/- (Rupees Three Lakhs) be paid to applicant No. 1 Panchshila W/o Santosh Salwe and Rs. 1,00,000/- (Rupees One Lakh) each to be disbursed in favour applicant No. 4- Savitrabai W/o Kundlik Salwe and applicant No. 5- Kundlik Ramji Salwe. Rest of the decretal amount deposited in this Court be invested in Fixed Deposit Receipts in any Nationalized Bank initially for a period of two years or till disposal of the appeal, whichever is earlier with liberty to renew the FDR in future, if required. The Registry to do the needful for disbursement of the amount in favour of applicants as mentioned above. Accordingly, civil application stands allowed in aforesaid terms and stands disposed of.

[K. K. SONAWANE]
JUDGE

MTK.