

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1010 CIVIL APPLICATION NO. 9686 OF 2018
IN FA/945/2018

BHIKA KRISHNA PATIL (DEAD) SUBHABAI AND ORS.
VERSUS

THE ORIENTAL INSURANCE CO.LTD., THR ITS DIV. BRANCH MANAGER,
AURANGABAD AND ORS.

...

Advocate for Applicants : Shri Bhokariker Madhav M.

Advocate for respondent no.1: Shri Ramanand Karwa h/f Shri R.F. Totala

.....

CORAM: V.L. ACHLIYA, J.

DATE: 03.08.2018

PER COURT :

1] The applicants have moved this application for withdrawal of the amount deposited by the appellant – Insurance Company.

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

3] The learned counsel for the appellant – Insurance Company submits that the appellant has a good case to succeed in the appeal. Driver of the vehicle, who was a necessary party, was not made party to the petition and further there was no valid and effective driving license with the driver to ply the vehicle i.e. Truck bearing

- 2 -

registration No.RJ-13-G-7051 owned by the respondent no.2.

4] Considering the overall facts and circumstances of the case and the submissions advanced and taking into consideration the fact that the father of the deceased expired and now mother of the deceased alone is alive, I am of the view that the amount to the extent of Rs.1,00,000/- be paid to the applicant no.2 – Smt.Subhabai Bhika Patil and rest of the amount be invested in a fixed deposit initially for a period of three years.

5] In view of above, I am of the view that passing of following order would meet the ends of justice :-

O R D E R

a] Subject to outcome of the appeal, the applicant no.2 – Smt.Subhabai Bhika Patil is permitted to withdraw the amount of Rs.1,00,000/- out of the amount deposited by the appellant. The amount be paid to her by transferring the amount in her savings bank account on furnishing undertaking to the satisfaction of the Registrar (Judicial) to the

- 3 -

effect that in the event the award is set aside or modified and she is required to re-deposit the amount, she shall deposit the said amount within twelve weeks from the date of such order.

b] After paying the amount of Rs.1,00,000/- to applicant no.2 as above, the balance amount be invested in a fixed deposit initially for a period of three years with State Bank of India, High Court Branch, Aurangabad, subject to renewal till the disposal of the appeal or further orders from this Court, whichever is earlier.

c] Interest accrued over the amount invested in fixed deposit be paid to the applicant no.2 after every three months by transferring the amount of interest in her savings bank account.

d] The application is disposed of in the aforesaid terms.

(V.L. ACHLIYA, J.)