

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

CIVIL APPLICATION NO. 13257 OF 2017
IN
FIRST APPEAL [STAMP] NO. 15943 OF 2016

Bhagyashri Sanjay Gadhave and others .. Applicants

versus

The National Insurance Company Limited
and another .. Respondents

Mr. S. S. Gangakhedkar, Advocate for applicants
Mr. A. B. Kadethankar, Advocate for respondent no.1

CORAM : SUNIL P. DESHMUKH, J.
DATE : 13th April, 2018

ORDER :

1. Undisputed facts are, Sanjay Gadhave died in an accident which took place between auto-rickshaw and a truck. He had been an earning member in the family and the applicants were dependent on his earning. Applicant no. 1 is wife, applicants no. 2 and 3 are parents and applicant no. 4 is minor son of deceased. Since the accident took place in 2010 and with loss of Sanjay, the family of deceased is stated to be passing through very horrifying economic condition. Beyond no fault liability, no further amount is received by them.

2. Learned counsel for respondent – insurance company appellant in the first appeal submits that offending vehicle entirely cannot be blamed for accident and further that income being earned by deceased may not be sustained by the evidence on record.

3. Although this is being so submitted in behalf of insurance company, deceased had been an earning member and the applicants were dependent on his income is not particularly disputed nor does their need is in question. It is being referred to that day to day life of the family of deceased has become difficult and for educational purposes of minor child as well amount is required by applicants.

4. In the circumstances, it would be expedient to allow the applicants to allow fifty per cent of the amount deposited along with accruals thereon on following conditions:

- (i) Twenty five per cent of the amount deposited in this court may be allowed to be withdrawn by applicants on furnishing undertaking to the satisfaction of the Registrar (Judicial) to the effect that the amount being withdrawn by them would be paid back / deposited by them in this court within a period of three months from the date of decision in the appeal, if it goes adverse to their interest.

(ii) Further twenty five per cent of deposited amount may be withdrawn by applicants on furnishing solvent security to the satisfaction of the Registrar (Judicial) of this court.

(iii) Amount being allowed to be withdrawn as aforesaid shall be shared in same proportion as apportioned under the award by tribunal and shall also be given similar treatment.

5. Rest of the amount lying deposited in this court may be invested in a nationalized bank earning interest.

6. Civil application is disposed of.

SUNIL P. DESHMUKH,
JUDGE

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