

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 2645 OF 2018
IN
FIRST APPEAL (ST.) NO. 28175 OF 2017**

Indumati Ashok Sannake & Ors. ... Applicants

IN THE MATTER OF

Iffco Tokio General Insurance Co. Ltd. ... Appellant

V/s.

Indumati Ashok Sannake & Ors. ... Respondents

Ms. Varsha Chavan for the Appellant-Insurance Company.

Mr. T.S. Ingale for Respondent Nos.1 to 5.

Mr. Balwant V. Salunkhe for Respondent Nos.6 and 7.

CORAM : K.K. SONAWANE, J.

DATE : 14th AUGUST, 2018.

P.C. :

1 Heard learned Counsel for the applicants-original claimants and the learned Counsel for Appellant-Insurance Company. Perused the application and other relevant documents produced on record. The applicants-original claimants preferred the present application seeking permission to withdraw the compensation amount of Rs.20,10,000/- deposited before the M.A.C.T. Sangli in M.A.C.P. No.137 of 2014. The

learned Counsel for the appellant-Insurance Company raised the objection and submit that the learned Tribunal did not appreciate the evidence on record in its proper perspective and granted exorbitant and excessive compensation amount in favour of applicants-claimants. The learned Tribunal committed an error while calculating the income of the deceased as well as the composite negligence of the driver of the alleged vehicle during the course of mishap. Learned Counsel requested not to allow the applicants-claimants to withdraw the amount but the appeal be listed for final hearing at the earliest.

2 Having considered the arguments advanced on behalf of both sides, I do not find any impediment to allow the applicants for withdrawal of some of the portion of compensation amount deposited in this matter. The applicants are widow, sons and mother of the deceased Ashok Sannake who died in the vehicular accident. The learned Tribunal appreciated the entire circumstances on record and awarded compensation in favour of applicants-claimants. In view of grounds of appeal raised on behalf of appellant-Insurance Company and the nature of the subject matter, I find that the applicants be allowed to withdraw the lump sum amount of Rs.15 lakhs i.e. 75% of the total compensation amount deposited in this matter. Definitely, it would sub-serve the purpose to provide some sort of solace to the

claimants for the death of their family member. It would not cause any injustice and prejudice to the appellant-Insurance Company or rest of the respondents. In such circumstances, application deserves to be allowed.

3 Accordingly, the application stands allowed partly. The applicants-claimants are hereby permitted to withdraw the lump sum amount of Rs.15 lakhs from the compensation amount deposited in the matter subject to condition that the applicant shall furnish the undertaking that they would refund the amount so withdrawn forthwith in case any contingency arises in the appeal. Applicant No.1 Smt. Indumati Ashok Sannake is hereby authorized to furnish the undertaking on behalf of her minor sons, if any. The rest of the balance decretal amount lying with the M.A.C.T. Sangli in M.A.C.P. No.137 of 2014 be invested in any nationalized bank in F.D.R. account for a period of two years or till decision of the present appeal on merit whichever is earlier with liberty to renew the F.D.R. in future if required.

4 It is further stipulated that from the total sum of Rs.10 lakhs allowed to be withdrawn by the applicants-claimants, the amount of Rs.3 lakhs each be invested in the name of minor applicant No.2 Santosh Sannake, applicant No.3 Mahantesh Sannake and applicant No.4 Kiran

Sannake for a period of six years in any nationalized bank in F.D.R. account. Rest of the balance amount of Rs.2 lakhs be paid to applicant No.5 Smt. Parubai Sannake and rest of the amount of Rs.4 lakhs be disbursed in favour of applicant No.1 widow Smt. Indumati Ashok Sannake.

6 The Registry of the M.A.C.T. Sangli to take requisite step for disbursement of the amount in favour of applicants-claimants as directed above and shall forward the compliance report to this Court.

7 In view of above, Civil Application stands disposed of.

(K.K. SONAWANE, J.)