

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

**CIVIL APPLICATION NO. 2525 OF 2017
IN
FIRST APPEAL STAMP NO. 19152 OF 2016**

Ashwini Pravin Rajguru and others	...Applicants
<i>In the matter of</i>	
The New India Assurance Co. Ltd.	... Appellant
Versus	
Ashwini Pravin Rajguru and others	... Respondents

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Mr. Anil Chavan a/w Ms. Kamal i/b Mr. Avinash M. Gokhale for
Applicants-claimants.

Ms. Poonam Mital for Respondent-insurance company.

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CORAM : K. K. SONAWANE, J.

DATE : 8th AUGUST, 2018.

P. C.:

1. Heard learned Counsel for the applicants-original complainants and learned Counsel for respondent-insurance company.

2. The applicants-original claimants moved the present application, seeking permission to withdraw compensation amount of Rs.20,40,910/-, deposited in the M.A.C.T. Pune in M.A.C.P. No.518 of 2014.

3. Learned Counsel for the respondent-insurance company raised objection and submits that the insurance company preferred the appeal and put in controversy quantum of compensation amount awarded in favour of claimants. Learned Tribunal did not appreciate the circumstances on record in its proper perspective and awarded exorbitant and excessive compensation amount. Learned Counsel requested not to allow the applicants to withdraw compensation amount deposited before the Tribunal.

4. In view of reasons mentioned in the application and the grounds of appeal raised on behalf of appellant-insurance company, I do not find it justifiable to preclude the claimants to avail the benefit of impugned judgment and award passed by the Tribunal for compensation towards loss caused to them following death of earning member of the family. In view of attending circumstances on record, the applicants claimants are to be permitted to withdraw at least 75% of the compensation amount which would accrued to Rs.15,00,000/- approximately. Definitely, it would subserve the purpose in the interest of justice.

5. Accordingly, civil application stands allowed partly. The applicants-claimants are permitted to withdraw lumpsum amount of Rs.15,00,000/- from the compensation amount deposited before the M.A.C.T. Pune in M.A.C.P. No. 518 of 2014, subject to condition that the applicants shall furnish undertaking that they would refund the amount so withdrawn forthwith in case any contingency arises in the appeal. The applicant No.1 Mrs.Ashwini Pravin Rajguru is hereby permitted to furnish undertaking on behalf of her minor children for withdrawal of amount. Rest of the balance compensation amount remained deposited before the M.A.C.T. Pune be invested in any nationalised bank, in FDR account for a period or two years of till decision of appeal on merit, whichever is earlier, with liberty to renew the FDR in future, if required.

6. It is further stipulated that out of total sum of compensation of Rs.15,00,000 allowed to be withdrawn by the applicants-claimants, a sum of Rs.5,00,000/- each be invested in FDR account in any nationalised bank in the name of minor applicant No.2 – Master Vedant Pravin Rajguru and applicant No.3 – Master

Siddhant Pravin Rajguru till they attain the age of majority. The amount of Rs.1,00,000/- each be paid to applicant No.4 – Mr. Kisan Mahadu Rajguru and applicant No.5-Mrs. Pushpa Kisan Rajguru i.e. parents of the deceased Pravin Rajguru. Rest of the balance amount of Rs.3,00,000/- be disbursed in favour of widow – applicant No.1 – Mrs. Ashwini Pravin Rajguru.

7. Registry of the M.A.C.T. Pune, to take requisite steps for disbursement of amount as directed above in favour of applicants-original claimants and forward compliance report to this Court.

8. Accordingly, civil application stands disposed of in above terms.

(K. K. SONAWANE, J.)