

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

**CIVIL APPLICATION NO. 2012 OF 2018
IN
FIRST APPEAL STAMP NO. 15513 OF 2017**

Sarita Vipinkumar Pandey and others	... Applicants
<i>In the matter of</i>	
Reliance General Insurance Co. Ltd.	... Appellant
Versus	
Sarita Vipinkumar Pandey and others	... Respondents
.....	
Ms Rina Kundu for Applicants-original claimants.	
Ms Poonam Mital for Respondent-insurance company.	
.....	

CORAM : K. K. SONAWANE, J.

DATE : 13th AUGUST, 2018.

P. C.:

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

2. The applicant No.1 Smt. Sarita Vipinkumar Pandey and applicant No.2 – Vipinkumar Ramniwas Pandey are the parents of deceased, who preferred the present application seeking permission to withdraw the compensation amount of Rs.41,83,785/- deposited before the M.A.C.T. Thane in M.A.C.P. No. 251 of 2009.

3. Learned Counsel for respondent-insurance company raised objection and submits that the learned trial Court has committed error by awarding exorbitant and excessive compensation amount in this case. The deceased was a bachelor, taking education in the college. The tribunal did not appreciate the circumstances on record and erroneously calculated the amount of future prospect in this case. Learned Counsel for the insurance company requested not to allow the applicants to withdraw the amount. Learned Counsel for respondent-insurance company insisted to keep the present appeal for final hearing at the stage of admission.

4. After giving anxious consideration to the argument advanced on behalf of both sides, I find it justifiable to allow the applicants-parents of the deceased to withdraw some part of the compensation amount deposited in this case to provide them some sort of solace into the matter. The applicants-claimants are pursuing present proceedings since 2009 and in such circumstances, it would be unjust and improper to keep them stranded awaiting benefit of the impugned award passed by the trial Court for compensation towards loss caused to them. Hence, present civil application deserves to be allowed partly.

5. Accordingly, civil application stands allowed partly. The applicant No.1 Smt. Sarita Vipinkumar Pandey and applicant No.2 – Vipinkumar Ramniwas Pandey are hereby permitted to withdraw lumpsum amount of Rs. 20,00,000/- from the total compensation amount deposited on behalf of the appellant-

insurance company before the M.A.C.T. Thane in M.A.C.T. No. 251 of 2009, subject to condition that they shall furnish undertaking that they would refund the amount so withdrawn forthwith in case any contingency arises in the appeal. Rest of the balance decretal amount deposited before the M.A.C.T. Thane, be invested in any nationalised bank in FDR account for a period of two years or till decision of appeal on merit, whichever is earlier, with liberty to renew the FDR in future, if required.

6. The Registry of M.A.C.T. Thane to take requisite steps for disbursement of amount in favour of the applicants No. 1 and 2 as directed above and forward compliance report to this Court.

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

(K. K. SONAWANE, J.)

Shridhar
Marutirao
Sutar

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