

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

**CIVIL APPLICATION NO. 1241 OF 2017
IN
FIRST APPEAL NO. 251 OF 2016**

Kaushalya Janardhan Saikar & Ors. ... Applicants

IN THE MATTER BETWEEN

The New India Assurance Co. Ltd. ... Appellant

V/s.

Kaushalya Janardhan Saikar & Ors. ... Respondents

Mr. Yuvraj P. Narvankar for the Applicants in CAF/1241/17.

Mr. S.M. Dange for Appellant-Assurance Company.

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 the relevant documents produced on record including the impugned judgment and award passed by the learned Tribunal. The applicants-original claimants preferred the present application seeking permission to withdraw the decretal amount of Rs.36,56,000/- approximately deposited before the M.A.C.T. Pune in M.A.C.P. No.569 of 2009. The learned Counsel for the appellant-Insurance Company raised the

objection and submit that the Tribunal did not appreciate the evidence on record and awarded exorbitant and excessive compensation amount to the claimants. He put in controversy the directions issued by the Tribunal for payment of compensation to the claimants and recover the same from the owner of the vehicle. The learned Counsel requested not to allow the claimants to withdraw the amount.

2 In view of submission on behalf of both sides and the findings expressed by the Tribunal, I do not find any impediment to allow the applicants-claimants to withdraw atleast Rs.26 lakhs from the total sum of compensation deposited in this case. Definitely it would sub-serve the purpose in the interest of justice. Accordingly, the application deserves to be allowed.

3 Accordingly, the application stands allowed partly. The applicants-original claimants are hereby permitted to withdraw the lump sum amount of Rs.26 lakhs from the compensation amount deposited before the M.A.C.T. Pune in M.A.C.P. No.569 of 2009, subject to condition that they shall furnish the undertaking that they would refund the entire amount so withdrawn forthwith in case any contingency arises in the appeal. The rest of the balance decretal amount remain lying in the M.A.C.T. Pune 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 lump sum of Rs.26 lakhs allowed to be withdrawn, the amount of Rs.2 lakhs each be paid to the applicant No.2 Jayram, No.3 Dnyaneshwar and No.4 Kishor sons of the deceased Janardhan Saikar. Rest of the balance amount of Rs.20 lakhs be disbursed in favour of applicant No.1 widow Smt. Kaushalya Janardhan Saikar.

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

6 With these observations, Civil Application stands disposed of.

(K.K. SONAWANE, J.)

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