

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

**CIVIL APPLICATION NO. 2569 OF 2018
IN
FIRST APPEAL (ST.) NO. 36414 OF 2017**

Tasleem Ashfak Deshpande & Ors.	... Applicants
IN THE MATTER OF	
Reliance General Insurance Co. Ltd.	... Appellant
V/s.	
Tasleem Ashfak Deshpande & Ors.	... Respondents

Ms. Poonam Mittal for the Appellant/Applicant.
Mr. T.J. Mendon for Respondent Nos.1 to 8.

CORAM : K.K. SONAWANE, J.

DATE : 9th AUGUST, 2018.

P.C. :

1 Heard the learned Counsel for the applicants-original claimants and the learned Counsel for respondent-Insurance Company. Perused the application and the findings expressed by the Tribunal. The applicants moved the present application seeking permission to withdraw the compensation amount of Rs.35,91,192/- deposited before the M.A.C.T. Mumbai, in Claim Application No.2017 of 2010. The learned Counsel for respondent-Insurance Company raised an objection and submit that the Insurance Company has already filed the appeal and raised dispute about the

quantum of compensation amount awarded by the Tribunal. It has been alleged that the Tribunal has granted an exorbitant and excessive compensation amount without considering the age and income of the deceased. It has also been contended that applicant Nos.6 to 8 could not be considered as dependent of the deceased. The learned Tribunal did not determine their share in the alleged compensation amount, therefore, they may not be allowed to withdraw the amount.

2 In view of argument advanced on behalf of both sides, I find it justifiable to allow applicant Nos.1 to 5 who are the widow, children and parents of the deceased for withdrawal of some portion of compensation amount deposited before the learned Tribunal. Admittedly, the applicant filed the Claim Petition for death of their family member in a vehicular accident. The learned member of the Tribunal after appreciating the evidence on record, allowed the Claim Petition and directed the respondent-Insurance Company and the owner of the offending vehicle to pay the compensation amount for the loss caused to the applicants. In such circumstances, I find that the applicants are entitled to withdraw atleast Rs.26 lakhs as lump sum amount from the compensation deposited in the Tribunal. Definitely it would sub-serve the purpose to provide some sort of solace to the applicants. However, the issue relating to payment of

compensation to rest of the applicant Nos.6 to 8 is required to be kept in abeyance as the Tribunal did not pass any order for payment of compensation to them. In such circumstances, application deserves to be allowed partly.

3 Accordingly, the application for withdrawal of compensation amount stands allowed partly. The Applicant Nos.1 to 5 are permitted to withdraw the lump sum amount of Rs.26 lakhs from the compensation amount deposited before the M.A.C.T. Mumbai in Claim Application No.2017 of 2010 on behalf of respondent-Insurance Company. Applicant Nos.1 to 5 shall be permitted to withdraw the aforesaid amount subject to condition that they shall furnish the undertaking that they would refund the amount so withdrawn forthwith in case any contingency arises in the appeal. The rest of the balance decretal amount deposited before the M.A.C.T. Mumbai in the present matter 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 amount of Rs.26 lakhs allowed to be withdrawn by the applicants-claimants, the amount of Rs.10 lakhs each be invested in F.D.R. account in the name of minor applicant

Nos.2 and 3 Master Essa Ashfak Deshpande and Master Arhan Ashfak Deshpande till they attain the age of majority. From the rest of the balance amount of Rs.6 lakhs, the applicant Nos.4 and 5 parents of the deceased are entitled to receive the compensation of Rs.1 lakh each and rest of the balance amount of Rs.4 lakhs be disbursed in favour of applicant No.1 Tasleem Ashfak Deshpande.

5 Registry of the M.A.C.T. Mumbai shall take requisite step for disbursement of amount in favour of Applicant Nos.1 to 5 as directed above and shall forward the compliance report to this Court.

6 Accordingly, the Civil Application stands disposed of in above terms..

(K.K. SONAWANE, J.)

Waishali
Sushil
Waghmare

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by Waishali
Sushil
Waghmare
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