

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 2329 OF 2017
IN
FIRST APPEAL (ST.) NO. 35590 OF 2016

Chetan Narendra Chapekar ...Applicant

IN THE MATTER BETWEEN

M/s. New India Assurance Co. Ltd. ...Appellant

Versus

Chetan Narendra Chapekar & Anr. ...Respondents

.....
Mr. Niketan Nakhawa for the Applicant.
Mr.D.S.Joshi for the Original Appellant in FA.

.....

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JANUARY 17, 2018**

P.C.:

1. This Application is moved by the applicant/original claimant for withdrawal of an amount of Rs. 55,57,000/- along with interest @9% p.a. deposited by the insurance company/original appellant pursuant to the judgment and award dated 7th May, 2016 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai in M.A.C.P. No. 1524 of 2008.

2. The learned counsel for the applicant/original claimant submitted that the applicant is the husband of the deceased. He further submitted that the applicant has not received any amount of the compensation. The wife of the applicant died in the accident and he needs money. Therefore, he be allowed to withdraw the amount deposited by the insurance company.

3. The learned counsel for the appellant/insurance company while opposing this application, has submitted that the insurance company has good case against the order of award. The insurance company challenges this Award on the ground of negligence of the deceased and on the point of quantum and dependency. He further submitted that the applicant is drawn more income than his deceased wife. Hence, there is no dependency. The amount of compensation granted by the tribunal is excessive.

4. The learned Counsel for the applicant/original claimant submitted that the tribunal has considered the contributory negligence of the applicant to 25%.

5. Considering the facts of the case and the submissions, the applicant/original claimant, i.e., husband of the deceased is allowed to withdraw an amount of Rs. 25,00,000/- with interest accrued thereon on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

6. Civil Application is allowed and is accordingly disposed of.

(MRIDULA BHATKAR, J.)