

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

**CIVIL APPLICATION NO. 2732 OF 2018
IN
FIRST APPEAL NO. 1391 OF 2016**

Surekha Dnyandev Girme & Ors. ... Applicants

IN THE MATTER BETWEEN

Reliance General Insurance Co. Ltd.

Through its Manager ... Appellant

V/s.

Surekha Dnyandev Girme & Ors. ... Respondents

Ms. Hetal Laghave a/w Ms. Deepika Prabhala i/b Res Juris for the Appellant.
Mr. Vivek V. Salunke for Respondent Nos.1 to 4.

CORAM : K.K. SONAWANE, J.

DATE : 9th AUGUST, 2018.

P.C. :

1 Heard learned Counsel for the appellant-Insurance Company and the learned Counsel for the Respondents. The Applicant moved the present application seeking permission to withdraw the compensation amount deposited by the appellant-Insurance Company before the M.A.C.T. Baramati in M.A.C.P. No.128 of 2011. The learned counsel for the appellant-Insurance Company raised an objection and submit that the learned Tribunal did not appreciate the evidence on record in its proper perspective and granted the exorbitant and excessive compensation amount. Moreover,

driver of the offending vehicle was not holding the valid license during the course of accident and therefore Insurance Company was not liable to indemnify the loss cause to the owner. The learned Counsel for the Insurance Company requested not to allow the applicant for withdrawal of the amount.

2 In view of reasons mentioned in the application and the grounds of objection raised on behalf of appellant-Insurance Company as well as findings of the learned Tribunal, I do not find any impediment to allow the applicants for withdrawal of some part of compensation amount. The applicants are the widow, children and the parents of the deceased Dnyandev Girme. The learned Counsel for the applicants submits that the applicant-claimant No.3 Shri Bhikoba Ganpat Girme is no more and he died pending the proceeding of the appeal before this Court. There are documents of bailiff report on record and the registry of this Court has also taken cognizance of the death of the applicant-claimant No.3 Bhikoba Ganpat Girme. Therefore, applicant Nos.1, 2 and 4 preferred the present application seeking permission to withdraw the compensation amount.

3 In view of the attending circumstances on record and the grounds raised on behalf of appellant, there is no impediment to allow the

application. Therefore, application deserves to be allowed.

4 Accordingly, the application stands allowed partly. The applicant No.1 Smt. Surekha Dnyandev Girme, Applicant No.2 Kumar Pratik Dnyandev Girme and Applicant No.4 Sou. Shantabai Bhikoba Girme are permitted to withdraw the lump sum amount of Rs.20 lakhs from the compensation amount deposited on behalf of appellant-Insurance Company before the M.A.C.T. Baramati in M.A.C.P. No.128 of 2011. The applicant-claimants are permitted to withdraw the amount subject to condition that they shall furnish the undertaking that they would refund the amount forthwith so withdrawn, in case any contingency arises in the Appeal. Applicant No.1 Surekha Dnyandev Girme is hereby authorized to furnish undertaking on behalf of her minor son. The rest of the balance decretal amount deposited before the M.A.C.T. be invested in any nationalized bank in F.D.R. account for the 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.

5 It is further stipulated that from the total sum of Rs.20 lakhs allowed to be withdrawn by the applicants-claimants, the total sum of Rs.12 lakhs be invested in the name of minor applicant No.2 Kumar Pratik

Dnyandev Girme till he attained the age of majority. From the balance amount, the total sum of Rs.3 lakhs be paid to the applicant No.4 Sou. Shantabai Bhikoba Girme and rest of the amount of Rs.5 lakhs be disbursed in favour of widow Applicant No.1 Smt. Surekha Dnyandev Girme.

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

7 Accordingly, the Civil Application stands disposed of.

(K.K. SONAWANE, J.)

Waishali
Sushil
Waghmare

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by Waishali
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