

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

**CIVIL APPLICATION NO. 39 OF 2018
IN
FIRST APPEAL NO. 287 OF 2017**

Sukanti Rajiv @ Rajib Parida and others ... Applicants

In the matter of

The Divisional Manager,

Reliance General Insurance Company Limited ... Appellant

Versus

Sukanti Rajiv @ Rajib Parida and others ... Respondents

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Ms. Rina Kundu for Applicants-claimants.

Ms. Poonam Mital for Respondent-insurance company.

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CORAM : K. K. SONAWANE, J.

DATE : 13th AUGUST, 2018.

P. C.:

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

Perused the application and other relevant documents produced on record.

2. The applicants-original claimants preferred the present application seeking permission to withdraw the compensation amount of Rs.25,78,012/- deposited before the M.A.C.T. Thane in M.A.C.P. No. 58 of 2014.

3. Learned Counsel for the respondent-insurance company raised objection and submits that the respondent-insurance company has filed the appeal agitating findings of the learned Tribunal on the ground that the exorbitant and excessive compensation amount has been awarded by the Tribunal to the claimants. The Member, M.A.C.T. did not appreciate the income of the deceased in proper manner. Learned Counsel for the appellant-insurance company also raised objection that the driver of the offending vehicle was not possessing the valid license at the time of alleged vehicular accident. Therefore, learned Counsel submits that the applicants-original claimants may not be allowed to withdraw compensation amount and the appeal be heard finally on merit.

4. After giving anxious consideration to the argument advanced on behalf of both sides, I find that it would be unjust and improper to preclude the applicants-claimants to avail the benefit of impugned award passed by the learned trial Court till finality of the present appeal on merit. The applicants are the widow and children of the deceased who succumbed to injury caused during

the course of vehicular accident. The learned Tribunal after appreciating the facts and circumstances, awarded compensation to the claimants. In such circumstances, I find it justifiable to allow the applicants for withdrawal at least lumpsum amount of Rs. 20,00,000/- from the compensation amount deposited in this matter. Definitely, it would subserve the purpose in the interest of justice.

5. Accordingly, civil application stands allowed partly. The applicants are permitted to withdraw lumpsum amount of Rs.20,00,000/- from the compensation amount deposited before the M.A.C.T. Thane in M.A.C.P. No. 58 of 2014, subject to condition that the applicants shall furnish undertaking that they would refund the amount so withdrawn forthwith, in case any contingency arises in the appeal. The applicant No.1 is hereby authorised to furnish undertaking on behalf of her minor children. Rest of the balance decretal amount deposited in 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 this appeal on merit, whichever is earlier, with liberty to renew the FDR in future, if required.

6. It is stipulated that from the lumpsum amount of Rs.20,00,000/- allowed to be withdrawn by the applicants-original claimants, the amount of Rs. 6,00,000/- each be invested in any nationalised bank in FDR account in the name of minor applicant No.2 – Miss Sugyani Rajiv @ Rajib Parida and applicant No.3 Miss Subhangi Rajiv @ Rajib Parida till they attain the age of majority. Thereafter, an amount of Rs. 5,00,000/- be invested in any nationalised bank in FDR account in the name of applicant No.4 – Master Saidatta Rajiv @ Rajib Parida till he attain the age of majority. Rest of the balance amount of Rs. 3,00,000/- be disbursed in favour of widow-applicant No.1 Smt. Sukanti Rajiv @ Rajib Parida.

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

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

(K. K. SONAWANE, J.)