

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

**CIVIL APPLICATION (ST.) NO. 3187 OF 2018
IN
FIRST APPEAL NO. 889 OF 2017**

Rupali Laxman Zanje & Ors. ... Applicants

IN THE MATTER OF
Bajaj Alliance General Insurance Co. Ltd. ... Appellant
V/s.

Rupali Laxman Zanje & Ors. ... Respondents

Ms. Yogita Deshmukh Chitnis for the Appellant.

Ms. Ayodhya Patki i/b Mr. Nitesh V. Bhutekar for Respondent Nos.1 to 4 and
Applicants in CAF/3187/2018.

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 findings expressed by the learned Tribunal. The
applicants-original claimants preferred the present application seeking
permission to withdraw the compensation amount deposited in this matter
on behalf of appellant-Insurance Company. The applicants are widow,
children and parents of the deceased Laxman Zanje who succumbed the
injury in the vehicular accident occurred on 02.09.2012. Learned Counsel

for the appellant-Insurance Company raised the objection and submits that the learned Tribunal awarded the exorbitant and excessive compensation amount in favour of claimants without appreciating the facts and circumstances on record in proper manner. The driver of the offending vehicle was not possessing valid license at the time of accident. Learned Counsel requested not to allow the applicants-claimants to withdraw the amount but to adjudicate the present appeal on merit at the earliest.

2 In view of submission on behalf of both sides, I do not find it justifiable to preclude the claimants to avail the benefits of award till finality of appeal on merit. The applicants-claimants are widow, children and parents of the deceased Laxman Zanje. They are pursuing the claim petition since the year 2012. The learned Tribunal after appreciating the evidence on record granted the compensation amount in favour of claimants. In such circumstances, I find it justifiable to allow the applicants atleast to withdraw the lump sum amount of Rs.16 lakhs from the total sum of compensation deposited in this matter. Definitely it would sub-serve the purpose to provide some sort of solace to applicants-claimants and also it would facilitate to protect the interest of the appellant-Insurance Company. Hence, the application deserves to be allowed partly.

3 Accordingly, the application stands allowed partly. The applicants-original claimants are permitted to withdraw the lump sum amount of Rs.16 lakhs from the total compensation amount deposited on behalf of appellant-Insurance Company in M.A.C.T. Mangaon, Raigad in M.A.C.P. No.152 of 2012, subject to condition that the applicants 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 lying in the M.A.C.T. Mangaon, Raigad, 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.16 lakhs allowed to be withdrawn by the applicants-claimants, the total sum of Rs.10 lakhs be invested in F.D.R. account in any nationalized bank in the name of minor applicant No.2 Kumar Sahil Laxman Zanje till he attain the age of majority. The rest of balance amount of Rs.6 lakhs, Rs.1 lakh each be paid to applicant No.3 Mr. Pandurang Baburao Zange and applicant No.4 Sou. Anita Pandurang Zanje, parents and Rs.4 lakhs be disbursed in favour of applicant No.1 Smt. Rupali Laxman Zanje.

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

6 In view of above, Civil Application stands disposed of.

(K.K. SONAWANE, J.)