

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO.2487 OF 2018

IN

FIRST APPEAL NO.307 OF 2017

(KAVITA SANJAY AWACHARE & OTH...VS.. UNION OF INDIA, CENTRAL RAILWAY.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms M.P.Kshirsagar, Advocate for Applicants/Appellants
Shri N.P.Lambat, Advocate for Respondent.

CORAM : Z.A.HAQ, J.

DATED : SEPTEMBER 05, 2018.

Heard.

2. By judgment delivered in First Appeal No. 307 of 2017 on 9th February, 2018 this Court has upheld the claim of the claimants for compensation and has directed the respondent to pay the amount of Rs.8,00,000/- towards compensation along with interest @ 7.5% per annum, the interest being chargeable from the date of filing of the claim petition before the Tribunal till the amount is paid/deposited. The respondent has deposited the amount of Rs.10,91,945/-. The claimants have filed this application praying that they be permitted to withdraw the amount.

3. The learned advocate for the respondent has pointed out the judgment delivered by the Hon'ble Supreme Court in Civil Appeal No. 4945 of 2018 on 9th May, 2018. Relying on paragraph No.15.4 of the judgment, it is submitted that the maximum amount for which the claimants are entitled would be Rs.Eight Lakhs and interest chargeable from the date of passing of the award. According to the

respondents, the claimants are not entitled for the amount of Rs.10,91,945/- and would be entitled for the amount of Rs.8,15,000/-.

4. The learned advocate for the claimants has pointed out from paragraph No.15.4 of the judgment, the observations of the Hon'ble Supreme Court that the judgment would not affect the award which has become final and the limitation for challenging the award has expired. It is submitted that the judgment was delivered by this Court on 9th February, 2018. The respondents have not pointed out that the limitation for challenging the judgment has not expired and therefore, the submission made on behalf of the respondent cannot be accepted. I find substance in the submission made by the learned advocate for the claimants. It has to be held that the claimants are entitled for the amount deposited by the respondent. However, considering the fact that the appellant No.2 was aged about 17 years when appeal was filed in 2017, appellant Nos. 3 and 4 are students and the appellant Nos. 1 and 6 are women, following order is passed:

- i) The amount deposited by the respondent with the Registry of this Court, along with interest on it, if any, be transmitted to the Railway Claims Tribunal, Nagpur.
- ii) The Railway Claims Tribunal, Nagpur shall permit the appellant No.1 to withdraw the amount of Rs.One Lakh.

- iii) Balance amount be kept in fixed deposit in a nationalized bank for the period for which maximum interest can be fetched.
- iv) The interest which accrues on the amount kept in the fixed deposit shall be given to the appellant No.1 and appellant No.5 in the ratio of 80:20 every quarterly, first payment being on 15th December, 2018. This arrangement shall continue till the appellant No.4-Asmita becomes major.
- v) After the appellant No.4-Asmita becomes major, the appellants will be at liberty to file application before the Tribunal for disbursement of the amount and on such application the Tribunal shall pass appropriate orders.

The civil application is **disposed** in the above terms.

JUDGE