

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

913. CIVIL APPLICATION NO.3188 OF 2019

IN FA/166/2019

Lahanbai W/o Vasant Sonwane and others

...Applicants.

Versus

The Branch Manager,
The National Insurance Co. Ltd.,
Br. Ahmednagar and others .

..Respondents.

Mr. K.N. Shermale, Advocate for applicants.

Mr. M.M. Ambhore, Advocate for respondent No.1

CORAM : V.L. ACHLIYA, J.

DATE : 4th April, 2019

PER COURT :

1. The applicants have moved this application for withdrawal of amount of Rs. 12,48,849/- deposited by the appellant-insurance company in terms of the award passed in Motor Accident Claim Petition No. 23 of 2013 by the Member, Motor Accident Claims Tribunal, Sangamner Dist. Ahmednagar.

2. In brief, it is the contention of the learned Counsel for the applicants that the applicants are in urgent need of the amount for the purpose of medical treatment as well as to incur expenditure of education of applications No. 2 and 3, who are minor.

3. The learned Counsel for the insurance company opposed the application with contention that the appellant has good case to succeed in appeal. The person seating on the mudguard of the tractor was not covered under the terms of the policy and the insurance company is not liable to pay any compensation. In case applicants are permitted to withdraw the amount, it will be difficult to recover the amount in the event the award is set aside or modified.

4. On due consideration of submissions advanced in the light of challenge raised in the appeal and taking into consideration that out of the three claimants, two claimants are minor children prosecuting their education, I am of the view that the following order would meet the ends of justice. Hence the following order.

ORDER

I) Out of the amount deposited by the appellant/insurance company, the applicants are permitted to withdraw amount of Rs. 2,50,000/- (Rs. two lacs fifty thousand only) on furnishing written undertaking that in case the award is set aside or modified, applicant No.1 shall redeposit the same within eight weeks from the date of order. The amount be paid to applicant No.1 by way of transfer in her saving account (as per the particulars to be furnished by the applicant)

II) After paying amount of Rs. 2,50,000/- to applicants,

remaining amount be invested in fixed deposit with the nationalized bank, initially for a period of 28 months with standing instructions to renew the same on expiry of period of maturity. The amount of interest accrued over the amount invested in fixed deposit be paid to applicant No.1-claimant after the interval of every three months, till disposal of the appeal or applicants No.2 and 3 attain age of majority, by transferring the amount in her savings bank account, for the purpose of maintenance of herself and her minor children/applicants No.1 & 2.

III) The application be marked as disposed of.

**(V.L. ACHLIYA)
JUDGE**

Madkar