

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

925 CIVIL APPLICATION NO.9677 OF 2017
IN
FA/1843/2017

SAKUBAI RATILAL MAHALE AND ORS
VERSUS
CHOLA MANDALAM INSURANCE CO. LTD.
THR ITS BRANCH MANAGER, AURANGABAD
AND ORS

...
Mr. C.V.Bhadane, Advocate for
applicants.

Mr. S.S.Dargad h/f Mr. S.G.Chapalgaonkar,
Advocate for R – 1.

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CORAM : V.L. ACHLIYA, J.
DATE : 11/12/2019

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ORAL ORDER:

1. The application is filed seeking withdrawal of amount deposited by respondent No. 3/Insurance Company.

2. Heard learned counsel for applicants, respondents/claimants and counsel representing appellant/Insurance Company. Perused the Judgment and Award passed by Tribunal.

3. In brief, it is the contention of learned

counsel for appellant that the Award passed is too much on higher side. It is contended that income has been considered @ Rs. 1 Lakh per annum without any evidence adduced to substantiate the contention of appellant that deceased was earning Rs. 1,50,000/-. Under the non pecuniary head, the amount of Rs. 1 Lakh has been granted to applicant No. 1, Rs. 50,000/- each to applicant Nos. 2 to 4 and Rs. 25,000/- each to applicant Nos. 5 and 6 which is not in consonance with the decision of Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others reported in (2017) 16 Supreme Court Cases 680.***

4. On the other hand, learned counsel for respondent No. 1 supported the Judgment and Award passed by Tribunal. He submit that Award of compensation is in terms of decision of Apex Court in the case of ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another reported in AIR 2009 SC 3104, National Insurance Company Limited Vs. Pranay Sethi and others reported in (2017) 16 Supreme Court Cases 680 and Magma General Insurance Co.LTD. Vs. Nanu Ram @ Chuhru Ram AND Ors. reported in (2018) 18 SCC 130.***

5. On due consideration of submissions advanced in the light of challenge raised in Appeal, I am of the view the following order would meet the ends of justice.

Hence, the following order.

ORDER

- [i] The applicant Nos. 1,5 and 6 are permitted to withdraw the amount to the extent of Rs. 1,50,000/- each.
- [ii] After paying the amount of Rs. 1,50,000/- each to applicant Nos. 1,5 and 6 and the balance amount be invested in equal proportion in the name of applicant Nos. 1 to 6 with any nationalized bank initially for a period of two years with standing instructions to renew the same till further orders from this Court.
- [iii] The interest accrued over the amount invested in the name of applicant Nos. 1 to 6 be credited in their respective saving account after every three months till disposal of Appeal or further order to be passed by this Court.
- [iv] The order of withdrawal and payment of interest shall be subject to final outcome of appeal.

6. Civil Application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP