

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

921 CIVIL APPLICATION NO.15248 OF 2016
IN
FA/2216/2013

LATABAI NARENDRA OSTWAL (JAIN) AND ORS.
VERSUS
M/S I.C.I.C.I. LOMBARD INSURANCE COMPANY LTD.
AND ORS.

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Mr. A.S.Sawant, Advocate for Applicants.

Mr. V.N.Upadhye, Advocate for R – 1.

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CORAM : V.L.ACHLIYA, J.

DATE : 12/04/2019

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ORAL ORDER :

1. The applicants/original claimant Nos. 2 and 3 who were minor at the time of filing of petition and passing of award have moved this application seeking withdrawal of amount deposited by the insurance company.

2. Heard learned counsel for applicants and appellant/insurance company. Perused the award passed by the Tribunal and the order dated 21/12/2012 passed in the matter.

3. In brief, it is the contention of learned counsel for applicants that applicant Nos. 2 and 3 who were minor at the time of filing of petition and passing of

award have attained the age of majority. Applicant No. 2 has passed C.A. examination and now desires to undergo further education. Applicant No. 3 is now prosecuting graduation course in Science. She also requires the amount for prosecuting further education.

4. Learned counsel for respondent – insurance company submits that the challenge raised in the appeal relates to the negligence and acts about the liability of the insurance policy to pay the entire compensation as well as quantum of compensation awarded by the Tribunal.

5. Considering the overall facts and circumstances of the case, I am of the view that the application deserves to be allowed to the extent of allowing claimant Nos. 2 and 3 the sum of Rs. 2 Lakhs each in terms of the award passed by the Tribunal, the amount of Rs. 4 Lakhs has been deposited in fixed deposit in the name of applicant No. 2 and Rs. 6 Lakhs in the name of applicant No. 3. Considering the age and requirement, the applicant Nos. 1 and 2 deserves to be permitted 50% of the amount invested in fixed deposit and applicant No. 3 to withdraw Rs. 2 Lakhs from Rs. 6 Lakhs. Accordingly, the following order is passed.

ORDER

[i] Subject to out-come of the appeal, claimant No. 2 i.e. Ankit Narendra Oswal [Jain] is permitted to withdraw the amount of Rs. 2 Lakhs out of the amount invested in fixed deposit on furnishing undertaking to the satisfaction of the Registrar [Judicial] that in case the Award is set aside or modified the applicants shall re-deposit the amount within 8 weeks from the date of such order.

[ii] Subject to out-come of the appeal, claimant No. 3 i.e. Puja d/o Narendra Oswal [Jain] is permitted to withdraw the amount of Rs. 2 Lakhs out of Rs. 6 Lakhs invested in her name subject to furnishing undertaking to the satisfaction of the Registrar [Judicial] that in case the Award is set aside or modified the applicants shall re-deposit the amount within 8 weeks from the date of such order.

[iii] Balance amount invested in the name of respondent Nos. 2 and 3 remain to be invested till disposal of appeal.

[iv] The application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP.