IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1330 OF 2018
IN
FIRST APPEAL NO.894 OF 2017

Smt. Sahida Asslam @ Chandsab Nadaf & Ors. ... Applicant.
Vs.
The Manager ICICI Lombard General
Insurance Company Ltd. ... Respondent.

Mr. S.G. Thorat, Advocate for Applicant.
Mr. Yuvraj Ghoral i/b Vijay Killeder,
Advocate for Respondent.

CORAM : K.K.TATED, J.
DATED : 8TH AUGUST, 2019.

P.C.

Heard Learned Counsel for the Parties.

2. By this Civil Application, Applicants/ Claimants are seeking to withdraw the amount deposited by Insurnace Company pursuant to the Order dated 11.10.2012 passed by Labour Court, Sangli in Application WC No. 46/B/13/2011.

3. In the accident which occurred on 03.03.2011, the Applicant lost Asslam Chandsab Nadaf who was working as a Driver. The tribunal awarded sum of Rs. 8,68,560/- by way of compensation with interest.

4. The learned Counsel appearing on behalf of the Applicant submits that this Court by Order dated 29.04.2015 in Civil Application No. 1334 of 2015 permitted Applicant Nos. 1, 2 and 3 to withdraw 10% amount each.

5. The Learned counsel for the Applicant submits, that time Applicant No.4 Ramjan Asslam @ Chandsab Nadaf was minor. He further submits that at that time Applicant No.5, the mother of deceased was not permitted to withdraw any amount. He submits that in the interest of justice, this Hon'ble Court be pleased to allow the Applicant to withdraw the amount deposited by the Insurance Company. He submits that Applicant Nos. 2 to 4 are taking education. For purpose, they required the amount. Hence they preferred the present Civil Application.

6. The learned counsel appearing on behalf of the Applicant Insurance Company vehemently opposed the present application. He submits that if entire amount is withdrawn by the claimants, then nothing will survive in the First Appeal. He submits that they have good chance of success. Therefore, there is no question of permitting original claimants to withdraw the entire amount.

7. Considering the submissions made by the Learned counsel for Applicant and as Applicant No.4 is taking education and who was not allowed to withdraw any amount as per earlier order and Applicant No.5 is a senior citizen who is the mother of deceased, they can be permitted to withdraw 10% amount of compensation with accrued interest without furnishing any security, but subject to outcome of the First Appeal, hence the following order.

a) Applicant No.4 Ramjan Asslam @ Chandsab Nadaf and Applicant No.5 Smt. Ajubi Ahmad Nadaf is entitled to withdraw 10% of total compensation with accrued interest without furnishing any security but subject to outcome of the First Appeal.

b) Tribunal is directed to invest the remaining amount in fixed deposit of any Nationalized Bank, initially for a period of one year and same to be continued till further orders.

c) Civil Application stands disposed off accordingly.

(K.K.TATED, J.)