

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1407/2018
IN
FIRST APPEAL NO.175/2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
	Mr.Sachin Padiya I/b Girish Agrawal for applicant. Mr.H.G.Misar for appellant. Mrs. Shweta Varadkar I/b P.S.Thimbire for respondent nos.4,6.

CORAM : K.K.TATED, J.
DATED : APRIL 26,2019

P.C.

1. Heard learned counsel for parties.
2. By this civil application applicant/claimant is seeking permission to withdraw the amount deposited by the Insurance Company in Tribunal as per the Judgment and Award dated 16.8.2014 passed by Motor Accident Claim Tribunal, Nashik in M.A.C.P.No.75/2009.
3. Learned counsel for applicant submits that in an accident which occurred on 5.10.2008,

claimant No.1 lost her husband and 2 and 3 their father. He submits that the claimant filed application for compensation u/s 166 of the Motor Vehicles Act to the tune of Rs.20 lakhs. He submits that the tribunal after considering evidence on record held, that the claimants are entitled to sum of Rs.23,34,200/- by way of compensation alongwith the interest @ 9% p.a. He submits that this Court by order dated 6.2.2015 permitted claimant no.1 to withdraw sum of Rs.2 lakhs and claimant nos. 2 and 3, Rs. One lakh each.

4. Learned counsel for applicant submits that this court by order dated 6.2.2015 granted liberty to applicants to prefer appropriate application for withdrawn of further amount.

4. Learned counsel for applicant submits that applicant no.1 is household wife. She do not have any source of income. He submits that applicant nos.2 and 3 presently started their career and for that purpose they require the amount. These facts are stated by applicant No.1 in her additional affidavit dated 5.2.2019 in para nos. 7 and 8. On the basis of this fact, learned Counsel for applicant submits that

applicant may be permitted to withdraw the amount deposited by the Insurance company.

5. On the other hand, learned counsel for Insurance Company vehemently opposed the present civil application. He submits that they specifically raised objection before trial court that the driver of the vehicle was not holding valid and effective license on the date of accident. He further submits that only trolley was insured with the company. Therefore, there is no question of any liability on the Insurance Company. He further submits that if entire amount is withdrawn by claimant without furnishing any security, then nothing will survive in the present proceeding. Therefore, there is no substance in present civil application and same be dismissed with cost.

6. Heard both sides. It is to be noted that in present proceeding, the tribunal awarded sum of Rs.23,34,200/- by way of compensation with 9% interest. Applicant no.1 is household wife without any source of income. Applicant nos.2 and 3 just started their career, therefore, they require some amount. Considering the fact that earlier this Court permitted them to withdraw

some amount, I am of the opinion that applicant has made out the case for partly allowing this civil application. Hence, following order.

a) Claimant no.1 Ranjana Shivaji Sonawane is permitted to withdraw sum of Rs.2,00,000/- with accrued interest without furnishing security subject to outcome of First Appeal.

2. Claimant no.2 Ravindra and No.3 Santosh Shivaji Sonawane are permitted to withdraw sum of Rs.1,00,000/- each with interest without furnishing any security subject to outcome of First Appeal.

3. Tribunal is directed to invest remaining amount in Fixed Deposit of any nationalized bank initially for a period of 1 year and same be continued till further orders.

4. Civil application stands disposed of accordingly.

5. No order as to cost.

(K.K.Tated,J.)