

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 795 OF 2019
IN
FIRST APPEAL NO. 1327 OF 2017

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. T.J. Mendon for Applicants.
Ms. Shalini Shankar for the Appellant.

CORAM: K.K.TATED, J.
DATED : 10/10/2019

P.C.

- 1 Heard learned Counsel for the parties.
- 2 By this Civil Application, the Applicants original Claimants are seeking permission to withdraw the amount deposited by the Insurance Company during the pendency of the present First Appeal.
- 3 The learned Counsel for the Applicants submits that Applicant No.1 is husband, Applicant No.2 is son and Applicant No.3 is daughter of deceased. He submits that in the accident which occurred on 22.05.2008 Applicant No.1 lost her wife Smt. Prema Kashinath Kule. At that time, she was 35 years old and she was working as maid servant and her earning was near about Rs.6,800/- per month. Hence, they filed

application claiming compensation of Rs.6,00,000/- with interest @18% p.a.

4 The learned Counsel for the Applicant submits that Applicant No.1 is agriculturist, Applicant No.2 is working and Applicant No.3 is taking education. In view of this fact, the learned Counsel for the Applicant submits that Applicant be permitted to withdraw the amount. He submits that in any case, the First Appeal will take time to dispose of finally.

5 On the other hand, the learned Counsel for the Appellant Insurance Company vehemently opposed the present Civil Application. She submits that in the present proceeding, the Applicant original Claimants have failed to show on record income of deceased. Apart from that the Tribunal has awarded compensation on higher side. She submits that they have good chance of success in the present matter. She submits that admittedly, Applicant no.1 is agriculturist, if entire amount is withdrawn by them, it is difficult for them to recover the said amount from the Applicants. She submits that if this court comes to a conclusion that Applicants may be permitted to withdraw some amount, in that case, they may be directed to provide bank guarantee.

6 In the present proceeding, the accident occurred on 22.05.2008. Applicant No.1 lost his wife who was 35 years old. Applicant Nos. 2 and 3 are son and daughter respectively of the deceased.

7 Considering the fact that the deceased was working, I am of the opinion that Applicants can be permitted to withdraw the amount during the pendency of the present First Appeal.

8 Hence, the following order is passed:

a) Applicants original Claimants are permitted to withdraw sum of Rs.1,50,000/- each without furnishing any security but subject to outcome of the First Appeal.

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

c) Civil Application stands disposed of accordingly.

d) No order as to costs.

(K.K.TATED, J.)