

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 1527 OF 2019

IN

FIRST APPEAL NO. 860 OF 2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Heena Hawaldar i/b Avinash Gokhale for the Applicant. Nikhil Mehta i/b KMC Legal Venture for Appellant.	

**CORAM: K.K.TATED, J.
DATED : OCTOBER 22, 2019**

P.C.

1 Not on board. At the request of the Learned Counsel for the Applicant matter is taken on production board for urgent orders.

2. Heard learned Counsel for the parties.

3. By this Civil Application, the Applicants are seeking permission to withdraw the amount deposited by the Insurance Company to satisfy the Judgment and award dated 30/08/2017 passed by the Motor Accident Claims Tribunal, Raigad in Motor Accident Claim Petition No. 223/2015.

4. The Learned Counsel for the Applicants submits that, in the accident which occurred on 27/04/2015, Claimant No.1 lost her husband Manoj Patil who was 40 years old. At that time he was working as technician in JNPT Uran and his monthly gross salary was Rs. 40,000/-. Hence, the Claimants filed the Claim Application under Section 166 of the Motor Vehicle Act, 1988 for compensation of Rs. 90,00,000/- as interest.

5. The Learned Counsel for the Applicants submits that, it is very difficult for them to maintain day to day expenses. She further submits that, Applicant Nos. 2, 3 and 4 are taking education. Not only that the Applicant No. 1 require amount for education, amenities for her children. The Applicant No. 1 has to repay the loan amount which was taken by the deceased. She submits that, in the interest of justice, this Hon'ble Court be pleased to permit Applicant Nos. 1 to 4 to withdraw some amount during the pendency of the present First Appeal. She submits that, if the application is not allowed, irreparable loss will cause to the Applicants.

6. On the other hand, the Learned Counsel for the Appellant submits that, if the entire

amount is withdrawn by the Claimants without furnishing any security, it will be very difficult for them to recover the same if they succeeds in the present First Appeal. He submits that, if this Court comes to the conclusion that the Claimants are entitled to withdraw the amount, in that case they may be directed to provide the solvent security and/or bank guarantee.

7. It is to be noted that, in the present proceeding, the Applicant No. 1 lost her husband and Applicant Nos. 2 to 5 lost their father. Applicants Nos. 2 to 5 are taking education. Apart from that, Applicant No.1 requires some amount day to day expenses of the other Applicants as well as their education.

8. Considering these facts, I am of the opinion that Applicant No. 1 to 4 can be permitted to withdraw some amount during the pendency of the present First Appeal. Hence, the following order:

a. Applicant No. 1. Snehal Manoj Patil, Applicant No. 2 Prajakta Manoj Patil, Applicant No. 3 Ankita Manoj Patil and Applicant No. 4 Pranita Manoj Patil are

permitted to withdraw a sum of Rs. 5,00,000/- each with accrued interest 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 Nationalized 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.)