

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1027 OF 2019
IN
FIRST APPEAL STAMP NO.8723 OF 2015

Smt. Sharada Avinash Pasalkar & Ors. ... Applicants

IN THE MATTER BETWEEN

Reliance General Insurance Company Ltd. ... Appellant.

Vs.

Sharda Avinash Pasalkar and Ors. ... Respondents.

Advocate Mr. Rajesh More for Applicants

Advocate Mrs. Varsha Chavan for Appellant

CORAM : K.K.TATED, J.

DATED : 8TH AUGUST, 2019.

P.C.

Heard learned counsel for the parties.

2. By this Civil Application, Applicant is seeking permission to withdraw the amount deposited by Appellant pursuant to the judgment and award dated 22.08.2014 passed by Motor Accidents Claims Tribunal, Pune in Claim Application No. 678 of 2011.

3. The learned counsel for Applicant submits that, in accident which occurred on 06.05.2011, the Applicant No.1

lost her husband Avinash Pasalkar. He submits that on that date, he was 34 years old. He was working as building supervisor with Mauli Constructions and was getting monthly salary of Rs. 12000/-. Hence the Applicant filed an application under Section 166 of Motor Vehicles Act, 1988 claiming the compensation of Rs. 15,00,000/-. He submits that the Tribunal after considering the evidence on record held that the claimants are entitled a sum of Rs. 16,72,600/-.

4. The learned counsel for Applicant submits that Applicant Nos. 2 and 3 are minors and Applicant No. 5 is no more. He submits that Applicant is a widow and Applicant No. 4 is a mother of deceased. He submits that Applicant No.1 is household wife. She has to maintain her both the minors children as well as mother in law who is senior citizen, hence she required the amount deposited by the Insurance Company.

5. On the other hand, the learned counsel appearing on behalf of Appellant Company vehemently opposed the present Civil Application. She submits that in the present proceeding, at the time of deciding the compensation, tribunal failed to consider the fact that there was collision between a car and tempo. She submits that Tribunal ought to have consider the mistake on the part of car driver i.e. a deceased himself. Hence they have good chance of success in

the present proceeding. She submits that if entire amount is withdrawn to the claimants, then nothing will survive in the present proceeding. Therefore, the application filed by applicants / claimants is required to be dismissed with costs.

6. I heard both the sides. It is to be noted in the present proceeding, the Applicant lost their family member Avinash Pasalkar in accident which occurred on 06.05.2011. Applicant No. 1 is a widow who is household wife. She has to maintain her both the minor sons. For that purpose, she required sum amount. Apart from that, the Applicant No.4 is also senior citizen, who is the mother of deceased. Considering these facts, I am of the opinion of that, Applicant No. 1 can be permitted to withdraw the amount of Rs. 5 Lacs with accrued interest, and Applicant No.4 can be allow to withdraw sum of Rs. 2 Lacs with accrued interest. Hence the following order:

- a. Applicant No.1 Sharada Avinash Pasalkar is entitled to withdraw sum of Rs. 5 Lacs with accrued interest without furnishing any security but subject to outcome of the First Appeal.
- b. Applicant No.4 Sou. Suman Narayan Pasalkar is entitled to withdraw sum of Rs. 2 Lacs with accrued interest without furnishing any security but subject to outcome of the First Appeal.
- c. 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.

- d. Civil Application stands disposed of accordingly.
- e. No order as to costs.

(K.K.TATED, J.)