

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1517 OF 2019
IN
FIRST APPEAL (ST) No. 34376 OF 2017

Smt. Sangeeta Hublal Patel and Ors. ...Applicants

In the matter between

Reliance General Insurance Company
Limited through Its
Manager Legal.

Mr. Khanjan Joshi ...Appellant

Vs.

Smt. Sangeeta Hublal Patel & Ors. ...Respondents

Ms. Varsha Chavan for Applicant Nos. 1 to 5

Mr. Rahul Mehta i/b. KMC Legal Venture for the Appellant

CORAM: K.K. TATED, J.

DATED : JUNE 14, 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 Appellant Insurance Company pursuant to the judgment and award dated 16th May, 2017 passed by the Motor Accident Claim Tribunal, Mumbai in MAC Application No. 542 of 2012.
3. The learned counsel Ms. Varsha Chavan for the Applicants submits that in accident, which occurred on 28th February, 2012, the Applicant No.1 lost her husband Mr. Hublal Patel. She submits that,

therefore, they filed Claim Petition under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.12,52,000/- along with interest. She submits that after considering the evidence on record, the Tribunal held that the Applicants are entitled sum of Rs.15,46,000/- by way of compensation with interest @ 9% p.a. She submits that the Applicant No.1 being a widow and household wife, it is very difficult for her to maintain her minor two children i.e. Applicant Nos.2 and 3. She further submits that Applicant Nos. 4 and 5 i.e. father-in-law and mother-in-law are also staying with her and, therefore, she requires some amount for their maintenance also. She submits that the Applicant Nos. 4 and 5 are senior citizens, they do not have any source of income and, therefore, they also requires some amount deposited by the Insurance Company.

4. On the other hand, learned counsel Mr. Rahul Mehta for the Insurance Company vehemently opposed the present civil application. He submit that if entire deposited amount is recovered by the Original Claimants, then nothing will survive in the present First Appeal. He submits that they have good chance of success in the present proceeding and therefore, there is no substance in the civil application and the same to be dismissed with costs.

5. I heard both the counsels at length. It is to be noted that in the present proceedings, Applicant No.1 is the widow of deceased and is household wife. She has to maintain her both minor children as well as father-in-law and mother-in-law. Considering this fact and the reasons disclosed in the civil application, I am of the opinion that the Applicants have made out a case for allowing them to withdraw 50% of awarded amount of the compensation of their share

with accrued interest thereon, without any security but subject to outcome of the First Appeal.

6. Hence, following order:

(A) Applicant No.1 -Smt. Sangeeta Hublal Patel, Applicant No.4- Shri Rambali Jagnandan Patel, Applicant No.5- Smt. Rajkumari Rambali Patel are entitled to withdraw 50% awarded amount of compensation with accrued interest of their share without furnishing any security but subject to outcome of the First Appeal.

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

(C) Liberty is granted to the Applicants, if they so desire, to prefer an application for withdrawal of further amount and that application may be decided on its own merits.

(D) Civil Application stands disposed of accordingly.

(E) No order as to costs.

(K. K. TATED, J.)