

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

**INTERIM APPLICATION NO. 1 OF 2019
IN
FIRST APPEAL NO.1116 OF 2018**

Smt. Rajanibala Abhishek Sharma & Ors ..Applicants

In the matter between

Reliance General Insurance Co. ltd. ..Appellant

v/s.

Smt. Rajanibala Abhishek Sharma & Ors . ..Respondents

**A/W.
CIVIL APPLICATION NO. 1825 OF 2019
IN
FIRST APPEAL NO.1116 OF 2018**

Reliance General Insurance Co. ltd. ..Applicant/Appellant

v/s.

Smt. Rajanibala Abhishek Sharma & Ors . ..Respondents

Mr. Rahul Mehta i/b. KMC Legal Venture for the Applicant in CAF/1825-19, for the Appellant in FA 1116-2018 and for the Respondent in IA/1/2019.

Mr. Tejesh Dande i/b. Tejesh Dande & Associates for the Applicant in IA/1/2019 and for the Respondents FA 1116-18.

Mr. D.S.Joshi for the Respondent No.8 in IA/1/2019.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 24th SEPTEMBER, 2019.

P.C.

INTERIM APPLICATION NO.1 OF 2019

1. By this application the applicants have sought withdrawal of compensation deposited by the appellant Insurance Company in terms of the impugned judgment and award dated 1.1.2018 in MACP 871 of 2008. The applicant No.1 is the widow, applicant Nos.2 and 3 are the children and applicant nos.4 and 5 are the parents of the deceased Abhishek Sharma, who expired in a Motor Vehicular accident involving truck bearing No. GJ-18-U-7874, insured by the appellant insurance company.

2. In an application under Section 166 of the Motor Vehicles Act, the Claims Tribunal, Pune, by the impugned judgment and award has awarded compensation of Rs.1,39,15,000/- with interest at the rate of 9% per anum. The Tribunal has ordered that 50% of the said compensation to be paid to the applicant no.1, 20% to the applicant nos. 2 and 3 and 5% each to the applicant nos. 4 and 5. The applicants claim that the deceased was the sole earning member of

the family. The applicants have stated that they are in need of money for their day to day household expenses, educational and medical expenses. They have therefore sought withdrawal of the entire amount.

3. It is pertinent to note that the appellant-Insurance Company has challenged the quantum of compensation, mainly on the ground that there is discrepancy in the income shown in the Income Tax returns vis-a-vis the salary certificate. Considering the grounds raised in the appeal memo, so also the reasons stated in the application, 25% of the total compensation with proportionate interest accrued thereon is ordered to be paid to the applicant no.1, 5% each with proportionate interest be paid to the applicant nos. 2, 4, and 5 . The applicant no.3 is a minor, and as such the applicant no.1 is permitted to withdraw quarterly interest on 10% of the total compensation. Suffice it to say that withdrawal is subject to the final outcome of the appeal.

4. The applicants shall furnish an undertaking before the tribunal that they will abide by the final orders that may be passed in this appeal.

5. The MACT, to re-invest the balance amount in the names of the respective applicants, in any nationalized bank after making the payment as stated above.
6. Civil application stands disposed of.

CIVIL APPLICATION NO. 1825 OF 2019

1. By this application, the appellant-Insurance Company has sought issuance of notice to the respondent nos.1, 2, 3, 6, 7, 9 and 10 by publication.
2. Learned Counsel Mr. Dande waives service on behalf of respondent nos.1 to 3. Mr. Joshi waives service on behalf of Respondent no.8. Hence no order as regards respondent nos.1 to 3 and 8.
3. Notice be issued to the respondent nos.6, 7, 9 and 10 by publication as per prayer clause (a), returnable in 8 weeks.
- . Civil application stands disposed of.

(ANUJA PRABHUDESSAI, J.)