

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2989 OF 2019
IN
FIRST APPEAL NO. 981 OF 2019

Garima Gajendra Vyas & Ors. ... Applicants

Future Generali India Insurance Co. Ltd. ... Respondent

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Ms Rina Kundu for the Applicants
Mr. D. R. Mahadik for the Appellant.

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CORAM : K. K. TATED, J.
DATED : AUGUST 29, 2019

P.C.:

1. Heard learned counsel for the parties.
2. By this Civil Application, Applicants are seeking permission to withdraw the sum amount of Rs. 61,10,474/- deposited by the Appellant insurance company to satisfy the Judgment and Award dated 17th April, 2017 passed by the MACT, Thane in MACP No. 397 of 2011.
3. The learned counsel for applicant submits that in an accident which occurred on 6th June, 2010, the Claimant No. 1 lost her husband. She submits that on the date of an accident deceased was 32 years old and he was doing service as a System Analysis with HCJ

Technologies Ltd. Mahape, Navi Mumbai and he was earning Rs.41,957 p.m. On the basis of these facts the Applicants filed application u/s. 166 of Motor Accident Claims Tribunal Act, 1988 for compensation.

4. Learned Counsel for Applicants submits that Claimant No. 1 is household wife and she do not have any source of income. She submits that Applicants require the said amount for her day to day expenses as well as to take care of her minor daughter and mother-in-law who is a senior citizen. She submits that First Appeal may take some time for hearing. Hence, pending the hearing of disposal of appeal, Applicants may be permitted to withdraw amount.

5. On the other hand, learned counsel Mr. D. R. Mahadik appearing on behalf of the Appellant in First Appeal submits that at the time of accident, the driver of the vehicle was not holding valid license. He submits that though the accident occurred on 6th June, 2010, the driving license was expired on 4th February, 2010 and renewed on 12th January, 2011. He submits that these facts were not considered by the Tribunal properly. He submits that if the entire amount is withdrawn by claimants, nothing will survive in the present proceeding. Therefore, there is no question of allowing Civil Application.

6. I have heard both the parties. It is to be noted that in the present proceeding, Claimant no. 1 lost her husband in the accident occurred on 6th June, 2010. Claimant No. 2 lost his father and

Claimant No. 3 lost her son. Claimant No. 1 & 3 are household wife. Considering these facts, I am of the opinion that, Claimants can be permitted to withdraw some amount during the pendency of the present First Appeal.

7) Hence following order is passed:

a) Claimants are permitted to withdraw the amount without furnishing security subject to final outcome of the First Appeal as under :

a) Claimant No. 1, Smt. Garima Gajendra Vyas, has permitted to withdraw some Rs. 10,00,000/- with accrued interest without furnishing security but subject to First Appeal.

b) Claimant No. 3 Smt Leela Tulsidas Vyas is permitted to withdraw some of Rs. 5,00,000/- with accrued interest without furnishing security but subject to First Appeal.

c) 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 orders.

d) Civil Application stands disposed of accordingly.

e) No order as to costs.

(K. K. TATED, J)