

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 4258 OF 2018
IN
FIRST APPEAL (ST) No. 848 OF 2017

Mrs. Mamta Dhondiram Pancharane and Ors. ...Applicants
In the matter between

IFFCO TOKIO General Insurance Co. Ltd. ..Appellant
Vs.

Mamta Dhondiram Pacharane and Ors. ...Respondents

Ms. Sangeeta Salvi for the Applicants
Ms. Varsha Chavan 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 for withdrawal of the amount deposited by the Appellant Insurance Company.
3. Learned counsel for the Applicants submits that the accident had occurred on 2nd January, 2014, in which Applicant No.1 lost her husband Dhondiram Govind Pacharane. She submits that at that time he was 54 years' old and doing service as a guide in Mumbai thane Guide Union Association. He was earning Rs.15,000/- p.m. She submits that Applicant No.1 is a widow and household wife. She do not have any source of income. Hence, the Applicants may be

permitted to withdraw some awarded amount of compensation deposited by the Appellant -Insurance Company. She submits that even Applicant No.2-son of the deceased, requires some amount for his educational expenses.

4. Learned counsel for the Applicants further submits that in connected First Appeal No. 1102 of 2017, this Hon'ble Court by order dated 26th April, 2019 in Civil Application No. 4272 of 2018 permitted the Claimants to withdraw 50% of the awarded amount of the compensation without furnishing any securities but subject to outcome of the First Appeal. She submits that in similar way, in this present proceedings, this Hon'ble Court may be permitted the Applicants to withdraw 50% of the awarded amount of the compensation.

5. On the other hand, the learned counsel Ms. Varsha Chavan for the Appellant-Insurance Company vehemently opposed the present civil application. She submits that they mainly challenges the First Appeal on non-joinder of necessary party and, therefore, there is no question of permitting the applicants to withdraw any amount. She submits that if the entire amount is withdrawn without furnishing any securities, then it will be very difficult for them to recover the amount from the Applicants, if they succeed in the First Appeal. Hence, there is no substance in the present civil application and the same is required to be dismissed with costs.

6. I heard both the counsels at length. It is to be noted that in the present proceeding, the deceased, who was working as a guide with Mumbai Thane Guide Union Association and he was earning Rs.15,000/- p.m.

7. Considering the submissions made by the learned counsel for the

Applicants and the averments made in the civil application, I am of the opinion that the Applicants can be permitted to withdraw 50% of awarded amount of the compensation as per their share determined by the Trial Court without furnishing any security but subject to outcome of the First Appeal.

8. Hence, following order:

- (a) Both the Applicants -Original Claimants are permitted to withdraw 50% of awarded amount of the compensation with accrued interest thereon as per their share without furnishing any security but subject to outcome of the First Appeal.
- (b) The Tribunal is directed to invest the remaining amount, initially for a period of one year in fixed deposit of any Nationalized Bank and same to be continued till further orders.
- (c) Applicants are at liberty, if they so desire, to prefer an application for further withdrawal of the amount and that application be heard on its own merits.
- (d) Civil Application stands disposed of accordingly.
- (e) No order as to costs.

(K. K. TATED, J.)