

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION [F] NO. 3621/2019
IN FIRST APPEAL NO. 37/2019.

National Insurance Co. Ltd., Nagpur.

-VERSUS-

Smt. Sunita Gajanan Sable and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri C.A. Anthony, Advocate for the Appellant.
Shri A.J. Thakkar, Advocate for Respondent Nos.1 to 4 & 6.
Shri S. Shahid, Advocate for Respondent No.7.
Respondent No.5 deleted.

CORAM : VINAY JOSHI, J.

DATE : 25.11.2019.

Heard.

2. This application is moved by applicants/
respondent nos. 1 to 4 and 6, seeking withdrawal of
partial amount of compensation on account of medical
exigencies which has arose due to physical ailment of
the original applicant no.3 – Avinash.

3. It reveals from the orders passed by this
Court on 04.12.2018, that earlier this Court has

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permitted partial withdrawal to the extent of Rs.1,20,000/- each in favour of applicants/ respondent nos. 1 and 6.

4. This time the reason canvassed is that applicant / respondent no.3 Avinash is physically disabled and for his medical treatment and betterment, further amount is required.

5. On account of death of head of the family namely Gajanan, the claim was filed by his legal heirs, i.e. widow, children and parents, in terms of Section 163-A of the Motor Vehicles Act, 1988. The Claims Tribunal has awarded total compensation of Rs.8,15,100/- along with interest and the apportionment is stated in paragraph no.3 of the final order.

6. The first item of apportionment is about allotment of Rs.2,15,100/- to the share of original claimant no.1/widow. As stated above, she was earlier permitted to withdraw amount of Rs.1,20,000/- only, meaning thereby that there is still some balance to her share, along with interest. The Tribunal has directed to invest the amount awarded in favour of minors in Nationalized Bank for a fixed period. Certainly the

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order is justified to that extent, however, the existing need of one of the minor has to be looked upon. An amount of Rs. 1,50,000/- was directed to be kept in fixed deposit in the name of original applicant no.3 – Avinash, who is minor and now he requires the said amount for medical treatment.

7. In my view, no purpose would be served if the amount is kept in fixed deposit in the name of said applicant, till he attains majority. Considering all these reasons, the applicant no.1/respondent no.1 is permitted to withdraw the amount of Rs.2,50,000/-.

8. At the time of disposal of the proceedings, amount to the share of widow/applicant no.1 and applicant no.6 – mother of the deceased, be appropriated first and if anything remains, in that case withdrawal of fixed deposit in the name of minor – Avinash be reduced to the remaining balance only. Civil Application is disposed of accordingly. No costs.

JUDGE

Rgd.