

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

C.A.F.NO. 4025/2019 IN F.A. NO. 291/2018.

National Insurance Co. Ltd. Bhandara.

-VERSUS-

Vaishali Mahendra Kadam 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 Y. Venkatraman, Advocate for the Appellant.
Shri K.S. Motwani, Advocate for Respondent Nos. 1,2,4 to
7.

CORAM : VINAY JOSHI, J.

DATE : 13.12.2019.

Heard.

2. Original claimants are seeking further withdrawal of compensation amount. The Tribunal while deciding the claim petition has granted total compensation to the tune of Rs. 1,03,63,160/- along with interest. By virtue of the order of this Court, the appellant / Insurance Company has deposited total amount of Rs.1,43,38,883/-. Thereafter, the claimants moved this Court seeking permission to withdraw, on which this Court vide order dated 23.02.2018 passed

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an order for withdrawal, which was modified on 31.10.2018, whereby the claimants were permitted to withdraw 50% of the amount of total compensation.

3. Applicants have filed a Pursis informing that by virtue of the said order, they have so far received near about Rs.39 lakhs and amount of Rs. 65 lakhs has been invested. The calculation roughly shows that the office has allowed personal withdrawal and invested Rs.63 lakhs, meaning thereby, the remaining amount is lying with the Registry of this Court.

4. It is a case of road accident where the deceased was driving a car, which was dashed by the Truck. The aspect of contributory negligence has to be dealt with on the basis of facts. Infact, if some negligence is found to be attributed towards the deceased, then in proportion the amount of compensation would have to be reduced. Therefore, it is not possible to release the entire amount of compensation amount deposited by the Insurance Company. However, considering the existing need of the claimants, respondent nos. 1 to 3 are permitted to withdraw an amount of Rs. 17,25,000/- (Rupees

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Seventeen Lacs Twenty Five Thousand) and respondent no. 4 is permitted to withdraw balance amount of Rs.5,75,000/- (Rs.Five Lacs Seventy Five Thousand), out of amount of Rs.23,00,000/-(Rupees Twenty Three Lacs) that comes to the share of respondent nos.1 to 4. Respondent nos. 6 and 7 are permitted to withdraw Rs.3,50,000/- (Rupees Three Lacs Fifty Thousand) each. The said amount be disbursed from the amount which is lying with the Registry, by keeping intact the FDRs. The said amount shall be disbursed on usual undertaking as, surety is already furnished, as per earlier orders of this Court. Civil Application is disposed of accordingly. No costs.

JUDGE

Rgd.