

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

946 CIVIL APPLICATION NO.3605 OF 2019
IN FIRST APPEAL NO.2348 OF 2018

SULTANA ALIM SHAIKH & OTHERS
VERSUS
RELIANCE GENERAL INSURANCE CO. LTD., MUMBAI

...

Advocate for Applicants : Mr.R.B.Dhakne h/f.
Mr.P.L.Paswan

Advocate for the respondent no.1 : Mr.Swapnil
Patil h/f.Mr.R.H.Dahat

...

CORAM : V.L.ACHLIYA,J.
DATE : 07.02.2020

P.C.

1] The applicants have moved this application seeking permission to withdraw the amount deposited by the appellant—Insurance Company.

2] Heard learned counsel for the applicants — claimants and the advocate representing the appellant—Insurance Company.

3] Learned counsel for the appellant—Insurance Company opposed the application seeking withdrawal of amount with contention

that the amount of compensation awarded is excessive and not in accordance with the settled principles of law laid down in the matter of compensation and award of compensation. It is submitted that the compensation has been assessed by treating monthly income of Rs.5,000/- per month without any evidence adduced in the case in that behalf.

4] On the other hand, learned counsel for the applicant-claimants supported the judgment and decree passed by the Tribunal and submits that the Tribunal has passed the compensation based upon the oral and documentary evidence in the case. It is submitted that the deceased was driver, and therefore, the notional income is considered as Rs.5,000/- per month cannot be said to be contrary to law.

5] On due consideration of the submissions advanced and the challenge raised in the appeal, I am of the view that following order would meet the ends of justice :

ORDER

- i] Subject to final outcome of the appeal, the applicant nos.1, 5 and 6 are permitted to withdraw the amount to the extent of Rs.4,50,000/- subject to filing an undertaking that in the event award is modified or set aside, they shall deposit the amount with this Court within four weeks from the date of order.

- ii] Out of Rs.4,50,000/-, the amount of Rs.2,50,000/- be paid to the applicant no.1 and the balance payment of Rs.2,00,000/- be paid in equal proportion to the applicant nos.5 and 6.

- iii] After making the payment of Rs.4,50,000/- to the applicant nos.1, 5 and 6 in above terms, the balance amount be invested in fixed deposit in terms of award passed by the Tribunal and interest accrued over the amount invested in fixed deposit be paid to the applicant

no.1 after every three months for the purpose of maintaining herself and maintenance of her minor children i.e. applicant nos.2 to 4 and applicant nos.5 and 6.

- iv] The amount be credited in the saving account of the applicant no.1 after every three months till further orders from this court.
- v] In the event the applicant no.1 is re-married and neglected to maintain the applicant nos.2 to 6 then the order of payment of interest to the applicant no.1 liable to be recalled.
- vi] Civil Application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE