

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

949 CIVIL APPLICATION NO.1397/2020
IN CIVIL APPLICATION NO.12385 OF 2019
IN FAST/22041/2019

SYED ASMABEGUM W/O GAFOOR AND OTHERS
VERSUS
M/S SHRIRAM GENERAL INSURANCE CO. LTD., THROUGH ITS BRANCH
MANAGER AND OTHERS

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Advocate for Applicants : Shri Panchal Shrinivas H.
Advocate for respondent no.2 : Shri Upadhye Vinayak Narayan

CORAM: V.L. ACHLIYA, J.

DATE: 14.02.2020

PER COURT :

1] The applicants – claimants have moved this application seeking withdrawal of amount of Rs.16,51,775/- deposited by the appellant – insurance company towards satisfaction of award.

2] Heard learned counsel for the applicants and respondent no.2 – insurance company.

3] Learned counsel for the appellant – insurance company opposed the application seeking withdrawal of amount with contention that the appellant has good case to succeed on merits. It is submitted that the deceased himself was negligent for causing accident. The deceased hit the stationary vehicle from behind and succumbed to injuries resulting into his death. While deciding the

claim petition, the Tribunal has overlooked negligent act on the part of the deceased. So also the Tribunal has not considered that the deceased himself has contributed for the cause of accident and no deduction has been made on that count.

4] On the other hand, learned counsel for the applicants – claimants supports the judgment and award passed by the Tribunal and submits that the Tribunal has decided the claim petition after scrutiny of evidence adduced in the matter.

5] On due consideration of the submissions advanced in the light of order of apportionment of compensation passed by the Tribunal and considering the interest of minors i.e. applicant nos.2 to 5, I am of the view that the order in following terms would meet the ends of justice. Hence, the following order.

ORDER

A] The applicant no.1 – Syed Asmabegum w/o Gafoor is permitted to withdraw sum of Rs.2,76,775/- on furnishing undertaking that in the event the award is set aside or modified, the applicant no.1 shall deposit the amount within four weeks from the date of passing of such order.

B] After paying the amount of Rs.2,76,775/- to applicant no.1, balance amount be invested in fixed

deposit in any Nationalized Bank in terms of order passed by the tribunal and the interest accrued over the amount invested be paid to the applicant no.1 - Syed Asmabegum after every three months for the purpose of her maintenance and maintenance of her children i.e. applicant nos.2 to 5. The amount of interest be directly credited in the savings bank account of the applicant no.1.

C] Payment of interest to applicant no.1 over the amount invested to remain in operation till further orders from this Court and same shall be subject to final outcome of the appeal. In the event the applicant no.1 neglects or deserts her children i.e. the applicant nos.2 to 5, then the order of payment of interest shall stand recalled with immediate effect.

D] Civil application is disposed of in above terms.

(V.L. ACHLIYA, J.)