

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.3259/2020
IN FIRST APPEAL NO.2834/2019

ROHIDAS DAGADU GADEKAR & OTHERS
VERSUS
NATIONAL INSURANCE CO.LTD. THROUGH ITS
DIVISIONAL MANAGER, AURANGABAD & OTHERS.

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Shri Vinod Y. Bhide, Advocate for applicants.
Shri A.B. Gatne, Advocate for respondent no.1.

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CORAM: V.L. ACHLIYA, J.

DATE: 18.08.2020

PER COURT :

1] The applicants – claimants have moved this application seeking withdrawal of the amount for the reasons set out in detail in the application.

2] Heard learned counsel for the applicants – claimants and the learned counsel representing the insurance company.

3] In brief, it is the contention of learned counsel for the appellant – insurance company that the deceased was 62 years of age. No income tax returns or any document proving loss of income has been produced on record. The deceased died leaving behind two major sons who run the business of the deceased. In that view, there was no business loss caused to the claimants on account of

accidental death of the deceased. It is submitted that the compensation awarded is excessive and the award is unsustainable in law. It is submitted that the widow of the deceased alone is entitled to receive the compensation.

4] On due consideration of the submissions advanced, the application deserves to be allowed. Hence, the following order.

ORDER

A] The applicants are permitted to withdraw the amount to the extent of Rs.15,00,000/- (rupees fifteen lakhs only) and the amount be paid to the applicant - claimant no.4 - Parubai Dagdu Gadekar (widow of the deceased) on filing undertaking to the satisfaction of Registrar (Judicial) to the effect that in the event the award is set aside or modified, the applicants - claimants shall re-deposit the amount within eight weeks or as per the order that may be passed by the Court.

B] Withdrawal of the amount shall be subject to outcome of the appeal.

C] After paying Rs.15,00,000/- to the applicant no.4, balance amount be invested in fixed deposit with State Bank of India initially for a period of three years with standing instructions to renew the same till further orders

from this Court.

D] Payment be made to the applicant no.4 by transfer of the amount in her savings bank account on her furnishing particulars of bank account.

E] Civil application is disposed of in above terms.

(V.L. ACHLIYA, J.)