

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**918 CIVIL APPLICATION NO.7414 OF 2020
IN FA/1659/2020**

**SADIYA AFZAL KHAN AND ORS
VERSUS
CHOLAMANDALAM M.S. GENERAL INSURANCE CO. LTD., THR ITS
MANAGER AND ANR**

Mr.P.C. Mayure, Advocate for the applicants/claimants.
Mr.S.G. Chapalgaonkar, Advocate for appellant-insurance
company.

**CORAM : V.L.ACHLIYA,J.
DATED : 08.12.2020**

P.C. :-

01. The applicants/claimants have moved this application seeking withdrawal of amount of compensation deposited by the appellant/insurance company.

02. Mr.Chapalgaonkar, learned counsel for the appellant/insurance company opposed the application with contention that the appellants have good case to succeed in appeal. The compensation has been determined by considering income of the deceased as Rs.15000/- per month based upon oral testimony of relative of the deceased. No evidence in the nature of documentary evidence brought on record to prove the occupation and income of the deceased. It is submitted that the amount of compensation assessed by the Tribunal based upon

income of deceased as Rs.15000/- per month is excessive and not sustainable in law. It is further submitted that the aspect of own negligence of deceased in causing accident has not been considered while determining the liability to pay compensation.

03. On the other hand, learned counsel for the claimants supported the judgment and order passed by the Tribunal and submits that the applicants restrict withdrawal of amount to the extent of applicant No.1 and 6 and seeks withdrawal as per order of apportionment. It is submitted that the amount to be deposited in the name of minor claimant shall be remained to be invested in terms of order passed by the Tribunal.

04. On due consideration of submissions advanced, the challenge raised in the appeal and the order of apportionment passed by the Tribunal, following order is passed :-

i. Applicant Nos.1 and 6 are permitted to withdraw an amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand) and Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand) each on furnishing usual undertaking to the satisfaction of the Registrar (Judicial).

(3)

ca7414.20

ii. After making payment to applicant Nos.1 and 6, balance amount be invested in terms of order of apportionment passed by the Tribunal.

5. The application is disposed of in above terms.

[V.L.ACHLIYA,J.]