

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.8014 OF 2020
IN FAST/34797/2019

MANJULA SHIVAJI PAWAR AND ORS
VERSUS
BRIJESH SHRIRAM AHIRWAL AND ORS

Mr.S.N. Rodge, Advocate for the applicants.
Mr.S.G. Chapalgaonkar, Advocate for respondent No.3.

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

P.C. :-

01. The applicants-claimants have moved this application for withdrawal of amount. Applicant No.1 is mother of deceased and applicant No.2 is brother of deceased, who is major in age.

02. Mr. Chapalgaonkar, learned Counsel submits that the challenge raised in the appeal confines to the aspect of composite negligence. It is submitted that while assessing the compensation, the Tribunal has not considered the case of composite negligence and fastened the liability entirely against respondent Nos.1 to 3.

03. On the other hand, learned Counsel for the applicants-claimants supported the judgment and order and

submits that the appeal filed is devoid of merit. The Tribunal has considered the aspect in minute detail and reached to the conclusion that the accident was solely occurred on account of negligence on the part of the driver of the vehicle insured with the appellant.

04. Since applicant No.2 is major son and brother of the deceased, cannot be said to be dependent upon income of the deceased. In that view, compensation deserves to be payable to applicant No.1 i.e. mother of deceased.

05. On consideration of the submissions advanced and challenge raised in the appeal, following order is passed :-

i. Out of the amount deposited, an amount of Rs.3,00,000/- (Rupees Three Lakhs) be paid to applicant No.1.

ii. Balance amount be invested in fixed deposit with any nationalized bank and quarterly interest accrued on the amount invested in the fixed deposit be paid to applicant No.1 by transferring the amount in her saving bank account after interval of three months till disposal of the appeal.

iii. The amount to be withdrawn and payment of interest shall be subject to final outcome of the appeal.

iv. The amount be paid on furnishing written undertaking by applicant No.1 that the amount to

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be withdrawn together with interest shall be refunded/redeposited in the event the award is set aside or modified, within eight weeks from the date of passing such order.

06. The civil application is disposed of in above terms.

[V.L.ACHLIYA,J.]