

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

**911 CIVIL APPLICATION NO.7967 OF 2020
IN
FA/1813/2018**

**PUSHPA VENARAM BHATI AND ORS
VERSUS
THE RELIANCE GENERAL INSURANCE CO LTD.,
THR ITS AUTHORIZED SIGNATORY/MANAGER
AURANGABAD**

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Mr. L.R.Thakur h/f Mr. L.C.Patil, Advocate for
Applicants.

Mr. S.G.Chapalgaonkar, Advocate for R – 1.

Mr. Abhay Deshmukh h/f Mr. K.K.Kulkarni,
Advocate for R – 5.

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CORAM : V.L.ACHLIYA, J.
DATE : 03/12/2020
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ORAL ORDER :

1. The applicants have moved this application seeking withdrawal of amount deposited by the appellant.

2. Heard learned counsel for applicants and learned counsel representing the respondent No. 1. Perused the Award passed by the Tribunal.

3. In brief, it is the contention of learned counsel for appellant that the appellant has good case to succeed in Appeal. The involvement of vehicle in the accident insured with the appellant is doubtful. The

complaint in respect of accident was lodged after 4 – 5 days after the incident. No explanation has been put-forth as to the delay in lodging the complaint. There was head on collusion between two vehicles and the deceased has equally contributed for causing the accident. Still no deduction was made on account of contributory negligence on the part of deceased. So also the amount of compensation awarded is excessive. The deceased was running Sweet Mart shop. After his death, same was transferred in the name of claimant No. 2, which itself sufficient to infer that no monetary loss has been caused to claimants on account of accidental death of deceased.

4. On the other hand, learned counsel for applicants supported the Judgment and Award passed by the Tribunal with the contention that there is no merit in the Appeal. The Tribunal has dealt each and every aspect in minute detail.

5. On due consideration of the submissions advanced, I am of the view the following order would meet the ends of justice.

Hence, the following order is passed.

ORDER

[i] The applicants are permitted to withdraw the amount to the extent of Rs. 8,00,000/- [Rupees Eight Lakh]. Out of the amount of Rs. 8,00,000/- [Rupees Eight Lakh], the amount of Rs. 5,00,000/- [Rupees

Five Lakh] be paid to applicant No. 1 and amount of Rs. 1,00,000/- [Rupees One Lakh] each be paid to applicant Nos. 2 to 4 on filing written undertaking that in case the Award is set aside or modified, the applicants shall re-deposit the amount within eight weeks from the date of such order.

[ii] After making the payment of Rs. 8,00,000/- [Rupees Eight Lakh], the balance amount be invested in Fixed Deposit with State Bank of India initially for a period of two years with standing instructions to renew the Fixed Deposit till further orders from this Court.

[iii] The interest accrued over the amount invested in Fixed Deposit be paid to applicant No. 1 after regular interval of three months by transferring the amount in her saving bank account to be utilized for her maintenance as well as maintenance of applicant Nos. 2 to 4.

[iv] The payment to be made to the applicants including interest in terms of this order shall be subject to outcome of Appeal.

[v] The amount be paid to the applicants/claimants by transferring the same in their respective saving bank account as per the particulars of their saving bank accounts.

6. The application is disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP