

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CIVIL APPLICATION NO.7698 OF 2020
IN FA/2930/2019

ASHABAI SUNIL KOLI AND ORS

VERSUS

CHOLAMANDALAM GENERAL INSURANCE CO. LTD., THR ITS DIV.
MANAGER, AURANGABAD

Ms.S.T. Kazi, 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 deposited by the appellant-insurance company.

02. Learned Counsel Mr.Chapalgaonkar for the appellant-insurance company opposed the application with contention that the compensation awarded is excessive and unsustainable in law. It is submitted that the deceased was 17 years of age and non-earning person. The Tribunal has considered income of deceased as Rs.5000/-. It is further submitted that the Tribunal erred in making deduction to the extent of 1/3rd towards personal expenses of deceased. In terms of Supreme Court Judgment

in the case of National Insurance Co. Ltd. Vs. Pranay Sethi & Ors., AIR 2017 SC 5157, the deduction ought to have been made to the extent of 1/2 of the personal expenses of the deceased. It is further submitted that the claimant Nos.3 and 4 being brother and sister are not entitled for compensation.

03. On the other hand, learned counsel for the claimants supported the judgment and submitted that the appeal preferred is devoid of merit.

04. On due consideration of submissions advanced and in the light of challenge raised in the appeal, I am of the view that applicant Nos.1 and 2 deserve to be permitted to withdraw an amount to the extent of 50% amount deposited. Hence, following order is passed :-

i. Applicant Nos. 1 and 2 are permitted to withdraw the amount to the extent of 50% of amount deposited on furnishing written undertaking to the effect that in the event award is set aside or modified, the applicants shall re-deposit the amount within eight weeks from the date of passing of such order.

ii. Out of amount of 50% permitted to be withdrawn, amount to be paid to applicant Nos.1 and 2 in equal proportion. After making payment of 50% amount in equal proportion, balance amount be invested in any nationalized bank in fixed deposit till disposal of appeal.

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05. The application is disposed of in above terms.

[V . L . ACHLIYA , J .]

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