

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 CIVIL APPLICATION NO.13025 OF 2019
IN FA/2772/2018

NIKHAT FIRDOS ABDUL RAB FAROOQUI
VERSUS
SHIVANAND KESHAVRAO JOGDAND AND ORS

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Mr.Taher Ali Quadri, Advocate for applicant
Mrs.S.D. Dhumal (Tambat), Advocate for
respondent no.1.
Mr.S.G. Chapalgaonkar, Advocate for
respondent no.3.

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CORAM: V.L. ACHLIYA,J.

DATE : 08.01.2020

ORAL ORDER:

The applicant-claimant moved this application seeking withdrawal of amount deposited by the appellant-owner of the vehicle.

2. Heard learned counsel for the applicant-claimant and respondents. Perused the judgment and award passed by the Tribunal.

3. Learned counsel for the appellant opposed the application with contention that the appellant has good case to succeed in appeal. It is submitted that, the application

filed by the applicant ought to have been dismissed on the ground of maintainability. It is further submitted that the evidence on record make out a case that the applicant-claimant herself solely responsible for the accident. She was not possessing the requisite licence to drive the vehicle in question.

4. On the other hand, learned counsel for the applicant-claimant supported the judgment and award passed by the Tribunal and submits that the applicant has preferred the appeal seeking enhancement of compensation. He further submits that the amount has not been deposited in terms of the award passed. The appellant has deposited only Rs.97,378/-. In terms of award passed the amount of Rs.1,34,786/- is required to be deposited.

5. On due consideration of submissions advanced and considering the challenge raised in appeal as well as the amount of compensation awarded, I am of the view that the following order would meet the ends of justice :-

ORDER

(i) The applicant is permitted to withdraw the amount of Rs.60,000/- on furnishing written undertaking to the effect that in the event the award is set aside or modified, the applicant shall re-deposit the amount within four weeks from the date of order.

(ii) After making the payment of Rs.60,000/- to the applicant, the balance amount be invested in fixed deposit with any Nationalized Bank initially for a period of two years with standing instructions to renew the same till further orders from the Court.

(iii) The order of withdrawal of amount shall be subject to final outcome of appeal.

(vi) The Civil Application is disposed of in above terms.

[V.L. ACHLIYA]
JUDGE

SGA