

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

**33 CIVIL APPLICATION NO. 8133 OF 2020
IN FIRST APPEAL NO. 1668 OF 2020**

**PAPABAI GANPAT MADHE AND ORS
VS
UNITED INDIA INSURANCE CO. LTD THR ITS
ADMINISTRATIVE OFFICER, AURANGABAD AND ORS**

Mr. V. P. Latange, Advocate for the applicants/ori. Claimants.
Mr. Swapnil S. Rathi, Advocate for respondent No.1

CORAM : V. L. ACHLIYA, J.

DATE : 14-12-2020

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

2. Heard learned counsel for the applicants/claimants and counsel representing the respondents.

3. In brief, it the contention of the learned counsel for the appellant that the appellant has good case to succeed in the appeal. While passing of order dated 21-08-2020 the court has granted stay to the execution of the award on depositing the 50% of amount as per award passed by the tribunal. It is submitted that amount of Rs. 19,71,850/- has been deposited in terms of order

dated 21-08-2020.

4. The learned counsel for the applicants submits that as the appellant-insurance company is not disputing the liability to pay the amount to the extent of 50% amount, the applicants be permitted to withdraw the amount in terms of award passed by the reference court.

5. I have carefully considered the submissions advanced in the light of challenge raised in the appeal and order passed by the tribunal. The tribunal has awarded the compensation of Rs. 35,26,000/- making the respondents liable to pay the compensation together with interest. Out of the said amount, the amount of Rs. 7,05,200/- each to be paid to claimant Nos. 1 to 4 and share of minors i.e. claimant Nos. 2 to 4 directed to be kept in fixed deposit till they attain the age of majority. The amount of Rs. 3,52,600/- with proportionate interest directed to be paid to applicant Nos. 5 and 6 mother and father of the deceased. It is submitted that in terms of order the amount of Rs. 7,05,200/- directed to be paid to the applicant /claimant No. 1.

6. On due consideration of the submissions advanced, the following order would meet the ends of justice:-

ORDER

- i. The applicant Nos. 1,5 and 6 are permitted to withdraw the total amount of Rs. 5,00,000/- subject to filing undertaking to the effect that in the event the award is set aside or modified, the applicants shall re-deposit the amount of Rs. 5,00,000/- with this court within eight weeks from date of such order.
- ii. Out of Rs. 5,00,000/-, the amount of Rs. 1,00,000/- each be paid to the applicant Nos. 5 and 6 and Rs. 3,00,000/- be paid to the applicant No. 1.
- iii. After making the payment, balance amount be invested in fixed deposit with any nationalized bank till final disposal of the appeal.
- iv. Interest accrued over the amount invested in fixed deposit be paid to the applicant No. 1 after regular interval of three months by transferring the amount in her saving bank account for the purpose maintaining herself and her minor children i.e. applicant Nos. 2 to 4 as well as applicant Nos. 5 and 6.
- iv. Amount be separately paid to the said applicants by transferring the amount in their respective saving accounts in terms of this order.

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v. Payment of amount to applicants shall be subject to outcome of appeal.

[V. L. ACHLIYA, J.]

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