

Sneha
N.
Chavan

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1790 OF 2020
IN
FIRST APPEAL (ST) NO. 32051 OF 2011**

Ashok Urf Bajirao Tukaram Rumale & Ors. ... Applicants

In the matter between:

National Insurance Company .. Appellant
V/s.

Ashok Urf Bajirao Tukaram Rumale & Ors. .. Respondents

Mr. Ashish Agarkar for the Applicants.

Mr. Nikhil Mehta i/b KMC Legal Venture, for the Respondent/ Ori.
Appellant.

CORAM : C.V. BHADANG, J.

DATE : 14th DECEMBER, 2020

P.C.

1. This is an application for further withdrawal of amount of compensation deposited by the insurance company (original appellant). The applicants are the parents of now deceased Ashok Rumale. In Motor Accident Claim Petition No. 578 of 2005, the learned Motor Accident Claims Tribunal at Thane has granted a compensation of Rs.8,69,628/- against the insurance company (original appellant) along with interest at the rate of 6% per annum

from the date of filing of the petition, till realisation. The insurance company is said to have deposited an amount of Rs.15 lakhs and odd in pursuance of the order dated 19.12.2011 passed by this Court granting stay. By the said order, respondent No.1 in the appeal was permitted to withdraw an amount of Rs.1,00,000/-. The applicants are seeking withdrawal of further amount of compensation.

2. I have heard the learned counsel for the applicants and the learned counsel appearing for the insurance company. Perused record.

3. The learned counsel for the applicants pointed out that applicant no.1 Mr. Tukaram Rumale is since dead, he therefore, submits that the withdrawal may be permitted in favour of applicant no.2 Smt. Anusuya Rumale.

4. The learned counsel for the insurance company submitted that the appeal involves a challenge to the quantum of compensation granted and therefore, he has opposed the application. It is pointed out that already this court has allowed partial withdrawal of compensation of Rs.1,00,000/-, which has been withdrawn.

5. I have considered the circumstances and the submissions made. The deceased was a driver and the accident in-question had happened on 06.07.2005. Till today, except the withdrawal of Rs.1,00,000/-, the applicants have not received any amount. As noticed earlier, the challenge in the appeal is on the ground of quantum of compensation granted. Considering the over all circumstances, in my view, some partial withdrawal can be allowed at this stage.

6. Hence, the following order:

ORDER

i) Applicant No.2 Anusuya Rumale is allowed to withdraw a sum of Rs.8,00,000/- (Rs. Eight lakhs only) from out of the amount of compensation deposited by the insurance company before the learned Motor Accident Claims Tribunal at Thane, on proper identification.

ii) This shall be subject to the applicant producing the death certificate of Tukaram Rumale and on furnishing the usual undertaking, to bring back the amount with reasonable interest, if so ordered by this Court.

iii) The balance amount shall be invested in a fixed deposit (if not already invested) with any nationalised bank.

iv) Interim Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.