

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

920 CIVIL APPLICATION NO.3569 OF 2021
IN FA/2376/2020
WITH
CIVIL APPLICATION NO.3570 OF 2021
IN FA/2376/2020

VISHWANATH ABARAO GARAD AND ORS
VERSUS
THE RELIANCE GENERAL INSURANCE CO. LTD., THR ITS LEGAL
OFFICER. AND OTHERS

...
Advocate for Applicants : Mr. Shinde Manoj D.
Mr. RH Dahat And Mr. SS Patil, Adv. For R/1.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 17th June, 2021.

PER COURT :-

1. CA No.3569/2021 is filed by six claimants whereas CA No.3570/2021 is filed by original claimant No.7 for withdrawal of the amounts.

2. Heard learned Advocates for the respective parties. The Award has been challenged on the point of negligence and other statutory defences those were taken. The amount that has been deposited towards the Award is to the extent of Rs.1,24,02,143/- apart from the statutory amount. As regards the statutory amount is concerned, since the appeal is pending, it cannot be allowed to be withdrawn or added in the amount to be withdrawn. As regards applicant Nos. 5 and 6 to CA No.3569/2021 are concerned, they are still minors and, therefore, their amount/their share cannot be allowed to be withdrawn. Further, out of the claimed amount, as per the order passed by the learned Member of Motor Accident Claims Tribunal, an amount of Rs.10,00,000/- each was directed to be kept in

(2)

Fixed Deposit in respect of claimant Nos. 1, 2, 3 and 7, for a period of five years and the Award was passed on 28.1.2020. When with some intention, which was in the interest of the claimants, such order is passed, then there is no hurdle to keep that amount in the Bank as per the Award and, therefore, out of the remaining amount, partial withdrawal can be permitted. Further fact to be noted is that applicant No.4 has now attained majority and, therefore, no hurdle in allowing her to withdraw some of the amount and, therefore, taking into consideration these aspects that some amount is required to be kept for the minor claimants and in view of the Fixed Deposit to be made for four claimants as per the Award, it would be in the interest of the applicants, i.e. original claimant Nos. 1, 2, 3 and 7, to withdraw an amount of Rs.10,00,000/- each and at this stage, applicant No.4 would be allowed to withdraw an amount of Rs.4,00,000/-. From rest of the amount, an amount of Rs.6,00,000/- be invested in the name of applicant no.4 for a period of five years and as regards further rest of the amount is concerned, Registrar (Judicial) to carry out the procedure and invest the said amount.

3. The applicant/s shall file an undertaking within a period of eight weeks that they/she would make the said amount good, if directed at the time of final disposal of the appeal.

4. The Civil applications stand disposed of.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV