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

**919 CIVIL APPLICATION NO.7410 OF 2020**
**IN FA/3547/2019**

ASHA CHETANSING MAHAJAN AND ORS
VERSUS
CHOLAMANDALAM M.S. GENERAL INSURANCE CO. LTD., THR ITS DIVISIONAL MANAGER, AURANGABAD
...
Advocate for Applicants : Mr. Bhokarikar Madhav M
Advocate for Respondent No.1 : Mr. S. G. Chapalgaonkar
...

**CORAM : SMT. VIBHA KANKANWADI, J.**

**DATE : 19.06.2021**

**ORDER :-**

. Present application has been filed for withdrawal of the amount deposited by respondent No.1 - Insurance company.

2. Heard both sides.

3. Learned Advocate for respondent No.1 has strong objection for withdrawal of the amount on the ground that the appeal has been filed challenging the point of negligence as well as quantum.

4. Taking into consideration the challenge made in the first appeal, partial withdrawal is permissible. As regards applicant No.4 is concerned, he appears to be still minor and therefore, no withdrawal

can be permissible for him. Applicant No.3 appears to have attended majority and therefore, amount can be allowed to be withdrawn by applicant Nos.1 to 3, 5 and 6 only.

5. Amount that is deposited is Rs.32,06,142/- along with the statutory amount. If the award that has been passed by the learned Tribunal is seen, he has apportioned the amount that was granted to the applicant Nos.5 and 6 - original petitioner Nos.5 and 6 i.e. father and mother of the deceased. Amount of Rs.2,00,000/- each has been given. Under the said circumstance, there is no hurdle in allowing them to withdraw the amount of their share i.e. Rs.2,00,000/- each. As regards petitioner Nos.1 to 4 are concerned, it was stated by the learned Tribunal that they would get equal share in the amount of Rs.16,86,000/-. Amount of petitioner Nos.2 and 4, who were minors at that time was directed to be kept in the Nationalized bank in their names, however, taking into consideration the change in the circumstance that out of them two have attended majority, it is not necessary that the entire amount should be kept in Nationalize bank. Partial withdrawal from that share can be allowed and therefore, as regards applicant Nos.1 to 3 to the present application are concerned, they are allowed to withdraw amount of Rs.4,00,000/- each.

6. Applicants shall file an undertaking within a period of eight weeks that they would make the said amount good if directed at the time of final disposal of the first appeal.

7. Rest of the amount be invested in any Nationalized Bank initially for a period of 12 months and thereafter, reinvested from time to time as per the order of this Court.

8. Application stands disposed of.

**[SMT. VIBHA KANKANWADI, J.]**

scm