

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

932 CIVIL APPLICATION NO.121 OF 2021
IN FA/183/2020 WITH CA/617/2020 IN FA/183/2020 WITH
CA/14311/2019 IN FA/3691/2019

HIMMATRAO S/O MANOHARRAO BAWALE AND ANOTHER
VERSUS
M.S.R.T.C., THROUGH ITS DIV. CONTROLLER, BEED AND
OTHERS

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Smt. A.R. Barate, advocate for the applicant.
Mr. S.S. Phatale, advocate holding for
Mr. A.D. Wange, advocate for respondent no. 1
Mr. S.B. Choudhary, advocate for respondents no. 3 to 5.

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CORAM : **SUNIL P. DESHMUKH AND
ABHAY AHUJA, JJ.**

DATE : 5th March 2021.

PER COURT :-

1. This is an application filed by original claimants no.4 and 5, who were father and mother of the deceased, for withdrawal of amount deposited in this court pursuant to order dated 20th January 2020 passed by the court in civil application no. 617 of 2020.

2. Learned counsel for applicants points out that all the five claimants have equal share in the compensation granted by tribunal and, thus, requests that present applicants be allowed to withdraw their share from the deposited amount.

3. Learned counsel for the applicants points out that out of five claimants, three claimants have already withdrawn their share from the amount deposited pursuant to an order dated 08-12-2020 in civil application no. 6023 of 2020. He also refers to the observations therein. Applicants had no particular objection to said application for withdrawal of amount by original claimants no.1 to 3 and further there has been reference to that the present applicants would make application for withdrawal and accordingly the application has been filed.

4. Learned counsel for applicants submits that the amount deposited in this court is only 50% of the compensation granted and applicants are in dire need of the same.

5. Though learned counsel for original claimants no.1 to 3 purports to resist, we do not consider the same to be legitimate, having regard to that a common motor accident claim had been filed and the tribunal had granted compensation to all the five claimants equally.

6. In view of the same, we consider that it would be appropriate to allow the present applicants to withdraw from 50% of compensation deposited, amounts in accordance with their share on furnishing an undertaking to the Registrar

(Judicial) of this court to the effect that in case the decision in first appeal goes adverse to their interest, they would re-deposit / pay back the amount withdrawn under this order, in this court within a period of two months from the date of decision in the first appeal in tune with the decision.

5. With aforesaid observations, civil application is disposed of.

(ABHAY AHUJA, J.)

(SUNIL P. DESHMUKH, J.)

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