

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

**CIVIL APPLICATION NO. 2656 OF 2021
IN
FIRST APPEAL NO. 2483 OF 2019**

Sheetal Prakash Raddewad and others ... Applicants

Versus

Omkar Translogistics Pvt. Ltd. and others ... Respondents

....

Mr. F. K. Patel, Advocate for the applicants

Mr. S. G. Chapalgaonkar, Advocate for respondent No.3

....

CORAM : R. G. AVACHAT, J.

DATED : 06th JULY, 2021

PER COURT :-

. This is an application for withdrawal of the amount of compensation awarded by the Motor Accident Claims Tribunal, Ahmedpur, in M.A.C.P. No. 07 of 2017, on 29.01.2019 and deposited in this Court pursuant to the order of this Court dated 19.07.2019, passed in Civil Application No.7996 of 2019.

2. The applicant Nos. 1 to 3 are the Class-I heirs of the deceased Prakash, who died in the accident involving motor vehicle. The applicant No.4 is the father and applicant No.5 is the mother of the deceased.

3. Heard. Perused the impugned award.

4. Shri S. G. Chapalgaonkar, learned Advocate for respondent No.3 – insurance company, would submit that the deceased was a Driver by profession. His salary was Rs.12,500/- per month. He was shown to have been paid Bhatta of Rs.6,000/- and incentive of Rs.4,000/- per month i.e. total salary of Rs.22,500/-, only with a view that more compensation is awarded. The tribunal granted 50% of the amount towards future prospects when such amount should not have been more than 40%. The learned Advocate would further submit that the deceased was sleeping in the open space of Bajaj Auto Limited. It was a private place. The vehicle involved in the accident is a goods carrier (public transport). Since the accident has taken place in a private place, the respondent No.3 insurance company does not have liability to pay compensation. According to the learned Advocate, the insurance company has a very good case in appeal.

5. Learned Advocate for the applicants, would on the other hand, submit that the deceased was the sole bread winner of the family. Due to his untimely death, it has become difficult for the applicants to make both ends meet. He, therefore, urged for allowing the application in toto.

6. Considering the submissions made by the learned Advocate for the respondent – insurance company, it would be desirable to allow the applicants to withdraw 45% of the amount of compensation deposited in this Court. In case, the appeal is not heard finally in near future, the applicants are at liberty to move similar application. In view of above, the following order is passed:-

ORDER

- (i) The application is allowed.
- (ii) The applicants are permitted to withdraw 45% of the deposited amount, on furnishing an undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- (iii) The amount be paid to the applicants, equally. The applicant Nos. 2 and 3 are minor. Therefore, the amount of the share of applicant Nos. 2 and 3 be kept in fixed deposit in any nationalised bank, until they attain the age of majority.
- (iv) Balance 55% amount be invested in fixed deposit in any nationalised bank, till disposal of the appeal.

[R. G. AVACHAT, J.]