

Chitra Sonawane

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

CIVIL APPLICATION NO.3061 OF 2019

IN

FIRST APPEAL NO.1462 OF 2019

Kishor Suresh Kurane and Others ...Applicants.

Vs.

Cholamandalam M.S.General Insurance ...Respondent.

Mr.Sangramsinh Yadav, Advocate for the applicants.

Miss Dipika Prabhala i/b Res Juris for the respondent.

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CORAM : PRITHVIRAJ K.CHAVAN J.

DATE : 27th JANUARY, 2021.

P.C. :

1. Heard the learned Counsel for the applicants.
2. Applicant No.1 who is the husband of the deceased has prayed for withdrawal of Rs.20 lakhs from the amount of compensation deposited by the appellant/insurer in M.A.C.T.,Kolhapur. The main ground for withdrawal as stated in the application is that, the applicant no.1 is not keeping good health as he has been suffering from trauma due to sudden death of his wife. It is also contended that the applicant's salary is less and therefore, to meet the

educational and other essential expenses, he require the said amount.

3. Learned Counsel for the appellant/insurer objects withdrawal as prayed for by contending that, eventhough the appeal is only on the aspect of quantum of compensation awarded by the tribunal, in view of the fact that the paper-book is ready which would be filed within two weeks, the appeal can be finally heard and disposed of.

4. Having considered the respective submissions, I am of the view that, the applicant can be permitted to withdraw an amount of Rs.20 lakhs. However, the tribunal shall pass an appropriate order as regards apportionment of shares including the aspect of investment of some part of the amount in Fixed Deposit in the name of minor children namely Applicant No.2 Kumar Karna Kishor Kurane and Applicant No.3 Kumar Kripa Kishor Kurane. The tribunal may also consider allowing periodical interest to be drawn from the amount invested in Fixed Deposit which would be helpful in meeting with educational expenses of children.

5. At the time of withdrawal of the amount as above, the applicant no.1 shall give an Undertaking that, in case the appellants succeeds in the appeal, the applicant shall refund the entire amount with interest which will be determined as per the decision of the appeal on merits. Such an Undertaking shall be given at the time of withdrawal itself.

6. After withdrawal of the amount, balance shall be invested in the Fixed Deposit as usual in any Nationalized Bank.

7. In view of above, the application stands disposed of.

8. This court on 11th November 2019 (Coram: R.D.Dhanuka,J.) has directed that the appeal will be disposed of finally at the stage of admission. However, it seems that the appellant has not yet filed the compilation of documents/paper-book. As already submitted by the learned Counsel for the appellant, paper book shall be filed within two weeks. The appeal shall be heard finally in the week commencing from 15th February 2021.

(PRITHVIRAJ K.CHAVAN,J.)