

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2638 OF 2021
IN
FIRST APPEAL NO.453 OF 2005

Ashabai Anil Dhengale and Ors.

...Applicants/
Ori.Claimants

vs.

The New India Assurance Co.Ltd.

...Defendant/
Ori.Opp. No.3

Ms. Kavita Shinde a/w. Mr. Ashok Tajane, for the Applicants.
None for the Respondents.

CORAM : N. J. JAMADAR, J.

DATE : OCTOBER 05, 2021

P.C.:

. This is an application for withdrawal of the amount deposited in the name of applicant No. 3 Anuradha Anil Dhengale pursuant to the order passed by the Division Bench of this Court in Civil Application NO. 4222 of 2004 in First Appeal (St.) No. 28320 of 2003. Para No. 2 of the said order reads as under:

2. The entire amount of the Award is deposited as per the order dated 26.9.2003. The dispute of the Assurance Company-respondent is with the owner of the vehicle in respect of liability. What we find for such purpose is that the amount of the claimants-applicants shall not be withheld. Therefore, we pass the following order:

(a) The 1/4th amount be released in favour of applicant

no.1-Ashabai Dhengale; 1/4th amount be released in favour of applicant no.4- Mrs Gojar Bhagwat Dhengale, mother of the deceased and 1/4th amount each shall be deposited in the name of the applicant nos 2 and 3, who are minors in a nationalised Bank till final disposal of the Appeal.

2. The applicant No. 3 Anuradha Anil Dhengale was then a minor. The applicant No. 3 has since attained majority. The applicant No.3's marriage has been solemnized. The applicant has incurred expenses for marriage by taking hand loan. The applicant No. 3 has thus prayed for permission to withdraw the amount deposited pursuant to the order of this Court, extracted above.

3. The learned counsel for the applicant submitted that the counsel for the respondent No. 7 insurer was served.

4. None appeared for the appellant insurer.

5. Hence, the counsel for the applicant was requested to give notice to the counsel for the appellant/insurer of today's listing of the matter.

6. The learned counsel submits that the advocates on record for the appellant, have informed that the brief has been returned to the appellant/insurer and they are in the process of seeking discharge.

7. It is imperative to note that this Court had already ordered the release of the amount in favour of the applicants including

applicant No. 3 Anuradha Anil Dhengale. Since the applicant No. 3 was then minor, the amount was directed to be deposited in the nationalized bank. The applicant No. 3 has since attained majority and the claim for the withdrawal of the amount to meet the expenses incurred for marriage and necessities of life seems justifiable. Hence, the amount, which has been deposited in the nationalized bank pursuant to the order passed by this Court on 17th January, 2005 in Civil Application No. 4222 of 2004 along with interest accrued thereon be paid to the applicant No. 3 Anuradha Anil Dhengale subject to furnishing usual undertaking and on proper identification.

8. The application stands disposed of.

(N. J. JAMADAR, J.)