

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

**FIRST APPEAL NO.678 OF 2019
WITH
INTERIM APPLICATION NO.2792 OF 2021**

Bajaj Allianz General Insurance Co.Ltd. ...Appellant
vs.
Tejashri Santosh Patil and Ors. ...Respondents

Mr. Devendranath Joshi, for the Appellant.
Mr. Jayant Bardeskar, for the Respondent.

**CORAM : N. J. JAMADAR, J.
DATE : OCTOBER 08, 2021**

P.C.:

I.A. No. 2792 of 2021:-

. Heard the learned counsel for the applicant and the learned counsel for the appellant/insurer.

2. This application is preferred seeking permission to withdraw the further amount of compensation deposited by the appellant/insurer in terms of the award in MACP No. 334 of 2014 dated 5th December, 2018 passed by the learned Member, MACT, Kolhapur. By an order dated 26th June, 2019, while staying the execution and operation of the impugned award, this Court had directed the respondent/appellant/claimant Nos. 2 and 3 to withdraw 15% of the compensation along with interest accrued

thereon, each, without furnishing security subject to outcome of the First Appeal.

3. The learned counsel for the applicant submits that the deceased was the sole earning member of the family. The applicant who are in their 60s are in financial constraints. The applicants require further amount to discharge the liabilities.

4. Mr. Joshi, learned counsel for the appellant/insurer resisted the prayer. It was submitted that the appeal itself may be heard expeditiously as the issue of contributory negligence of the deceased warrants consideration.

5. The applicants are in their 60s. The claim of the applicants that they require further amount to meet the necessities of life and discharge the liabilities cannot be said to be unreasonable. Thus, it would be expedient to allow the applicants to withdraw a portion of the amount. The concern of the appellant/insurer can be addressed by directing the applicants to furnish an undertaking. Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant Nos. 1 and 2/original Claimant Nos. 2 and 3 are permitted to withdraw 15% of the compensation awarded by the learned Member, along with interest accrued thereon, each, subject

to furnishing an undertaking that they will bring back the said amount and the amount which has already been withdrawn, along with such interest as may be determined by this Court, in the event the appeal is allowed and it is held that the applicants/claimants are not entitled to compensation.

3] Application accordingly stands disposed of.

F.A.678 of 2019:-

6. The learned counsel for the appellant seeks further time to furnish a private paper book.

7. Six weeks time is granted to the appellant to furnish private paper book and serve its copy on the respondents.

8. List on 3rd December, 2021.

(N. J. JAMADAR, J.)