

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

**INTERIM APPLICATION NO.373 OF 2021
IN
FIRST APPEAL [STAMP] NO.1888 OF 2020**

1.Sunil Kondaji Gulve	
2.Adinath Sunil Gulve	]...Applicants.
Vs.	
Divisional Manager, M.S.R.T.C.	]...Respondent.
 <i>IN THE MATTER BETWEEN:</i>	
Divisional Manager, M.S.R.T.C.	]..Appellant.
Vs.	
Sunil Kondaji Gulve & Anr.	]...Respondents.

...

Mr.Pritesh K. Bohade for applicants.

Miss Ayodhya Patki, for respondent/original appellant i/b Mr. Nitesh Bhutekar.

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 23RD FEBRUARY, 2021.

P.C. :

1. This is an application for withdrawal of an amount of compensation awarded by M.A.C.T., Nashik in M.A.C.P No.1069 of 2014.
2. Heard Miss Ayodhya Patki, the learned Counsel holding for Mr.Bhutekar on behalf of the appellant.
3. Mr.Pritesh Bohade, learned Counsel appearing for the applicants

contends that ever since the award has been passed, not a single rupee has been received by the applicants. This Court, by an order dated 11th February 2020 (Coram: R.D. Dhanuka,J.) while staying execution and implementation of the judgment and award impugned, directed the appellant to deposit the entire amount of compensation inter-alia permitting the applicants to withdraw 25% of the amount. However, it appears that the applicants have not withdrawn 25% of the amount. Be that as it may.

4. The applicants are husband and son of the deceased. It appears from record that, the applicant no.1 is an Agriculturist.

5. Ms.Ayodhya Patki, the learned Counsel holding for Advocate Bhutekar, objects withdrawal of entire amount of compensation by drawing my attention to the fact that despite an order permitting withdrawal of 25%, the applicants have not withdrawn the same which, demonstrates that the applicants did not require that amount.

6. Learned Counsel for the appellant further submits that the offending bus is wrongly shown as involved in the motor accident and secondly, the owner of the jeep, to which there has been dash, has not been added as party.

7. Having considered the submission, at this stage, 25% of the amount of compensation is permitted to be withdrawn by the applicants.

8. At the time of withdrawal, applicant no.1 shall give an

Undertaking that in case the appellant succeeds, he will refund the amount with interest subject to the outcome of the appeal.

9. After withdrawal of the amount, the balance amount shall be invested in a Fixed Deposit in any Nationalized Bank for the period of one year and thereafter for one more year after obtaining order from this Court.

10. Application stands disposed of.

(PRITHVIRAJ K.CHAVAN,J.)