

Uday S. Jagtap

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

**INTERIM APPLICATION NO. 655 OF 2021
IN
FIRST APPEAL (ST.) NO. 1710 OF 2020**

Tai Baban Shinde & Ors.	.. Applicants
In the matter between	
Reliance General Insurance Co.	.. Appellant
Vs.	
Tai Baban Shinde & Ors.	.. Respondents

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Mr. Sangramsinh S. Yadav for the applicant
Mr. Pandit Kasar for the appellant – insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 8th APRIL, 2021
(Through Video Conferencing)

P.C.

1. This is an application seeking withdrawal of 50% of the amount of compensation by the widow, two sons and married daughter of deceased – Baban, who met with a fatal accident while passing through Khandala Ghat, as a pillion rider of the motorcycle, which was trying to overtake a truck.

2. According to Mr. Yadav, the widow of the deceased has no source of income. She stays in a rental house. She needs financial assistance for her survival. Applicant nos. 2 and 3 are daily wage earners, whereas the applicant no.4 is a married daughter of the deceased. Even, her financial condition is very bad.

3. Mr. Kasar, learned Counsel for the insurer, on the other hand, objects withdrawal of the amount on behalf of the insurer by contending that the appellant has a good case on merits and, therefore, the claimant may not be permitted to withdraw any amount.

4. Having taken into consideration the grounds made out in the application especially in paragraph no.7, I am of the considered view that in order to fulfill their basic needs, the applicants deserve some amount for their survival. As such, I permit the applicants to withdraw 50% of the amount of compensation with accrued interest. At the time of withdrawal of the amount, the applicants shall give an undertaking that in case the appeal succeeds, they will refund the amount with interest at such rate as would be directed by this Court, depending upon the outcome of the first appeal.

5. It appears that the applicant no. 2 – Arun Shinde and applicant no. 3 – Yogesh Shinde are major, meaning thereby they are 31 and 28 years of age respectively. They must be having their independent sources of income. In that view of the matter, out of 50% amount, the amount of Rs.6 lakhs be invested in a fixed deposit in the name of applicant no.1 – Tai Baban Shinde, initially for a period of one year in a bank of her choice. The period of fixed deposit may be extended beyond one year.

6. The applicant no.1 - Tai Baban Shinde is at liberty to withdraw periodical monthly interest from the fixed deposit for her survival.

In case of any emergency, liberty to the applicant no.1 to withdraw the whole amount, invested in fixed deposit before its maturity.

7. The balance amount which is permitted to be withdrawn, shall be equally distributed amongst respondent nos. 2, 3 and 4.

8. If 50% amount is withdrawn by the applicants, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

9. The application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)