

Uday S. Jagtap

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

**INTERIM APPLICATION NO. 856 OF 2021  
IN  
FIRST APPEAL (ST.) NO. 34545 OF 2017**

|                                  |                |
|----------------------------------|----------------|
| Mrs. Shobha Ashok Parab & Ors.   | .. Applicants  |
| In the matter between            |                |
| Bajaj Allianz Insurance Co. Ltd. | .. Appellant   |
| Vs.                              |                |
| Mrs. Shobha Ashok Parab & Ors.   | .. Respondents |

.....

Mr. T.J. Mendon for the applicants  
Mr. Sarthak S. Diwan for the appellant – insurer

**CORAM : PRITHVIRAJ K. CHAVAN, J.**

**DATED : 8<sup>th</sup> APRIL, 2021**  
*(Through Video Conferencing)*

**P.C.**

1. Heard Mr. Mendon, learned Counsel for the applicants - claimants. He submits that the widow and two major children of the deceased, who unfortunately died in an accidental death are in financial constraints and, therefore, in need of money. The applicants are totally dependent upon the income of the deceased, who was the sole bread winner of the family. The applicants are now at the mercy of the friends, family members and relatives for their day-to-day survival and livelihood. As they are going through a great deal of hardship, it is prayed that they may be allowed to withdraw some amount of compensation deposited by the appellant - insurer.

2. Mr. Diwan, learned Counsel for the appellant – insurer however, raises objection that there is every likelihood of getting success in the appeal and in that case, it would be difficult to recover the amount of compensation, which would be permitted to be withdrawn.

3. Considering the respective submissions and the fact that the applicants were dependents of the deceased, they will have to be permitted to withdraw some amount of compensation. I am, therefore, of the view that the applicants be permitted 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.

4. Mr. Mendon submits that out of the said amount, Rs.3 lakhs be paid to the applicant – Shobha Ashok Parab and the balance amount shall be distributed equally to the applicant no.2 – Jayesh A. Parab and applicant no.3 – MonishA. Parab.

5. As such, the amount of Rs. 3 lakhs be paid to applicant no.1 – Shobha A. Parab and the balance amount be equally paid / distributed to applicant nos. 2 and 3.

6. 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.
7. The application stands disposed of.

**(PRITHVIRAJ K. CHAVAN, J.)**