

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

Interim Application No. 211 of 2020

In

First Appeal No. 146 of 2015

Mirabai Rajendra Khairnar & Ors. ... Applicants.

Vs.

Divisional Manager,
New India Assu. Co. Ltd & Anr. ... Respondents.

IN THE MATTER BETWEEN:

Divisional Manager,
New India Assu. Co. Ltd & Anr. ... Appellant.

Vs.

Mirabai Rajendra Khairnar & OthersRespondents.

.....

Mr.Pritesh Bohade, Advocate for the applicant.

Mr. D.S.Joshi, Advocate for respondents.

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 1st FEBRUARY, 2021.

P.C.:

1 This is an application for withdrawal of amount of compensation deposited by the appellant/insurer in M.A.C.T.,Nashik. Total amount of compensation awarded by the tribunal, in view of the impugned judgment and award is to the tune of Rs.9,23,128/-.

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2. It is contended by the learned Counsel for the applicant that, the applicants are in financial difficulty and due to COVID-2019 pandemic, it is difficult for them to meet both ends. Applicant No. 2 Gaurav Rajendra Khairnar and 3 Saurav Rajendra Khairnar are taking education.

3. Mr.Joshi, the learned Counsel for the appellant/insurer objects withdrawal of the amount by contending that, the appellant has a good case on merits. It is pointed out that the learned Member of the tribunal has applied wrong multiplier while quantifying the amount of compensation.

4. Having considered respective submissions at bar, it would be just and proper at this stage, to allow the applicants to withdraw 50% of the amount of compensation with accrued interest.

5. At this stage, it is brought to my notice, that at the time of granting stay to the execution of award, this Court had permitted applicant no.1 Mirabai Rajendra Khairnar to withdraw Rs.1,00,000/- and applicant no.2 Gaurav Rajendra Khairnar to withdraw Rs. 25,000/-.

6. It seems that applicant no.2 Gaurav Rajendra Khairnar and no.3 Saurav Rajendra Khairnar are aged about 26 and 22 years.

Though in the title, it has been mentioned that both Gaurav and Saurav are taking education, nothing has been stated in the application as to what kind of education is being prosecution by the applicants. Looking to their ages, it would not be just and proper to hand over amount of compensation to be withdrawn. Instead, the said amount would only be permitted to be withdrawn by applicant no.1 Mirabai Rajendra Khairnar. 50% of the amount shall be made over to Mirabai in her name which shall be kept in a Fixed Deposit for a period of one year. Applicant Mirabai is permitted to withdraw periodical interest from the Fixed Deposit which if required, can be given to the applicant no.2 Gaurav and applicant no.3 Saurav as and when they require for their education.

4. The applicants shall give an Undertaking within two weeks from the date of this order in the M.A.C.T., Nashik that in case, the appeal succeeds, they will refund the amount with interest as will be decided finally at the time of the decision of the appeal.

5. Application disposed of.

(PRITHVIRAJ K.CHAVAN J.)