

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1795 OF 2021
(For withdrawal of amount)

IN

FIRST APPEAL (STAMP) NO. 19784 OF 2019

1. Mohammad Yusuf Mohammad Ismail
Shah & 6 Ors. ... Applicants

In the matter between :

1. The Divisional Officer,
Bajaj Allianz General Insurance Company
Ltd. ... Appellant

Vs.

1. Shri Mohammed Yusuf Mohammad
Ismail Shah & Ors. ... Respondents

.....

Mr. Sarthak S. Diwan, for applicants.
Mr. Pritesh K. Bohade for appellant.

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CORAM : N.J. JAMADAR, J.
DATE : 4th October, 2021

PER COURT :

1. This application is preferred to allow the applicants to withdraw some amount out of the remaining amount deposited by the respondent-appellant, pursuant to the award in M.A.C.P. No. 550 of 2012, dated 15th March 2019, passed by the learned Member, Tribunal, Nashik.

2. By an order dated 18th July 2019, the applicant No.2- Shahnaz Mohammad Yusuf Shah, the mother of the deceased was allowed to withdraw a sum of Rs. 2,00,000/- with interest accrued

thereon without furnishing any security, subject to outcome of this appeal. Liberty was also granted to the claimants to prefer an appropriate application for withdrawal of further amount.

3. Availing the aforesaid liberty, the applicants have preferred this application.

4. In the application, reasons are assigned to indicate the poor financial position and adverse social condition of the applicants and the resultant necessity.

5. Heard the learned counsel for the applicants and the learned counsel for the appellant.

6. The learned Member of the Tribunal had apportioned the compensation amongst the claimants, as under :

“3] On receipt of the compensation amount, the same shall be paid to the Petitioners in the following manner :

(a) Rs. 3,76,400/- (Rupees Three Lacs Seventy Six Thousand, Four Hundred only) along with proportionate interest be paid to the Petitioner No.2, Shahnaj Mohd. Yusuf Shah. Out of the said amount, an amount of Rs.1,00,000/- (Rs. One Lac Only) be kept as fixed deposit in any nationalized bank for a period of 5 years in the name of Petitioner number 2, Shahnaj Mohd. Yusuf Shah.

(b) Rs.1,00,000/- (Rupees One Lac only) each along with proportionate interest be paid by account payee cheque to the :

(i) Petitioner number 3, Mumtaz Mohd. Yusuf Shah

(ii) Petitioner 5, Tazila Mohd. Yusuf Shah.

(iii) Petitioner No.6 Mohd. Samreen Yusuf Shah and

(iv) Petitioner 7, Tarannum Mohd. Yusuf Shah Mohd. Yusuf Shah.

(c) Amount payable to Petitioner number 6 and 7, be kept as fixed deposit in their name in any nationalized bank for a period of 3 years.”

7. The prayer of the applicants, in the backdrop of the reasons ascribed in the application and the situation which arose on account of Covid-19 Pandemic, appears justifiable. The applicant No.2- Shahnaz Mohammad Yusuf Shah is, thus, permitted to withdraw a further sum of Rs.75,000/- and the applicant No.3- Mumtaz Mohammad Yusuf Shah, applicant No.5-Tanjila Mohammad Yusuf Shah, applicant No.6-Samrin Mohammad Yusuf Shah and applicant No.7-Tarannum Mohammad Yusuf Shah, are permitted to withdraw a sum of Rs.50,000/- each.

8. The application stands partly allowed to the aforesaid extent.

(N.J. JAMADAR, J.)