

Uday S. Jagtap

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

**INTERIM APPLICATION NO. 729 OF 2021
IN
FIRST APPEAL (ST.) NO. 15563 OF 2018**

Mrs. Rekhadevi Shivaji Saroj @ Bhartiya & Ors.	.. Applicants
In the matter between	
Reliance General Insurance Co. Ltd.	.. Appellant
Vs.	
Mrs. Rekhadevi Shivaji Saroj @ Bhartiya & Ors.	.. Respondents

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Ms. Rina Kundu for the applicants
Mr. Devendranath Joshi i/b M/s. KMC Legal Venture for the appellant
- insurer

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 16th MARCH, 2021

P.C.

1. Heard Ms. Rina Kundu, learned Counsel for the applicants.
2. By this application, the applicants pray for withdraw of the whole amount of compensation deposited by the appellant - insurer in M.A.C.T., Palghar, i.e. Rs.32,65,212/- by contending that the applicants who are the dependents of the deceased, after his death, they are facing difficulty in their day-to-day life as they do not have any independent source of income. It is only after the death of the deceased, the widow has started doing tailoring work to run the family.

3. The applicant nos. 2, 3 and 4 are minors, who are prosecuting their education, whereas applicant no.6 is the mother of the deceased, who, because of her old age, is in regular need of medicines. For these reasons a prayer is made for withdrawal of the amount of compensation.

4. Ms. Kundu, learned Counsel for the applicants submits that applicant no.5 – Rajendraprasad Pannalal Saroj @ Bhartiya has expired on 10th February, 2018 of which a notice has been given to the advocate for the appellant, along with copy of the death certificate. Mr. Joshi, learned Counsel for the appellant – insurer shall take necessary steps in that regard.

5. Mr. Joshi, holding for Mr. Mehta, learned Counsel for the appellant however, objects withdrawal of the entire amount by stating that the appellant has good case on merits.

6. However, considering the grounds in the application, it would be in the interest of justice to permit the applicants to withdraw 50% of the amount of compensation with accrued interest. The applicant nos. 1 and 6 shall furnish an undertaking within two weeks that if the appellant - insurer succeeds in appeal, the applicants shall refund the amount with interest at such rate as would be directed by this Court, depending upon the outcome of the first appeal.

7. If the applicants do not file an undertaking within the aforesaid period, the amount deposited by the appellant - insurer shall be invested by the M.A.C.T in a fixed deposit in any

Nationalized Bank for a period of one year and thereafter for one more year again after obtaining order from this Court.

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.)