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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2774 OF 2021
(For withdrawal)
IN
FIRST APPEAL NO. 373 OF 2021

1. Sunita Ganesh Kadam
& Ors

...Applicants

In the matter between :

Divisional Manager,
The New India Assurance Co. Ltd.
& Anr.

... Appellants

vs.

1. Smt. Sunita Ganesh Kadam
& Ors

...Respondents

WITH
INTERIM APPLICATION NO. 571 OF 2021
IN
FIRST APPEAL NO. 373 OF 2021

Mr.Yogesh Pande a/w. Mr. C.M. Lokesh for applicants.

Mr. Milind V. More, Advocate for respondents/original appellants.

CORAM : N. J. JAMADAR, JJ.

DATE : 7th OCTOBER , 2021

P.C.:

INTERIM APPLICATION NO. 2774 OF 2021

1. Heard the learned counsel for the applicant Nos. 1 to 4 and the
learned counsel for respondent No.1.

2. This application is preferred seeking permission to withdraw the amount of compensation deposited by the respondent No.1-insurer, in terms of award dated 2nd September 2021 passed by the learned Member, MACT, Pune, in MACP No.312 of 2017. The applicant No.1 is the widow of the deceased and the applicant Nos. 2 to 4 are the minor children of the deceased. The applicants claimed that the deceased was the sole earning member of the family. The applicants require the amount to meet the necessities of life.

3. Mr. More, the learned counsel for the respondent No.1-insurer resisted the application. It was submitted that the applicant Nos. 2 to 4 are minors and the applicant No.1 cannot be permitted to withdraw the amount, till they attain majority.

4. By the impugned award, the learned Member has apportioned the compensation. The applicant Nos.2 to 4 and the deceased applicant No.5 have been awarded Rs.7 Lakh each, and the applicant No.1, the wife of the deceased is awarded the rest of the amount, out of the total compensation of Rs.40,84,000/-. The learned Member has directed that the amount falling to the share of applicant Nos. 2 to 4 be deposited in a fixed deposit in a nationalized bank, till they attain the age of majority.

5. In the aforesaid backdrop, the claim of the applicants for withdrawal of the amount is required to be appreciated. In the light of the situation in life, in which the applicants find themselves, after the death of the deceased, their claim of being in need of the amount to meet the necessities of life, cannot be said to be unreasonable. It would be expedient to allow the applicant No.1 to withdraw a portion of the amount falling to her share and permit the applicant Nos. 2 to 4 to withdraw the interest which accrued on the amount of Rs.7 Lakh each, deposited towards their shares, to meet the expenses of education and livelihood. The application thus deserves to be partly allowed.

6. Hence, the following order :

O R D E R

- (i) The application stands partly allowed.
- (ii) The applicant No.1-Smt. Sunita Ganesh Kadam is permitted to withdraw an amount of Rs.7 Lakh alongwith interest accrued thereon and the applicant Nos.2 to 4 are permitted to withdraw the quarterly interest which accrues on the amount, falling to their respective shares, out of the amount of

compensation deposited by the respondent No.1-insurer, subject to furnishing an undertaking that they will bring back the amount in the event the appeal is allowed and it is held that the applicant Nos.1 to 4 are not entitled to the compensation.

The application accordingly stands disposed of.

(N. J. JAMADAR, J.)