

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO. 3768 OF 2019
(FOR WITHDRAWAL OF AWARD AMOUNT)
IN
FIRST APPEAL (ST.) NO. 20575 OF 2015**

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1) Smt. Lilabai Shivram Waghmare
& Anr.

.. Applicants

In the matter between :

1) Reliance General Insurance Co. Ltd.
& Anr.

...Appellants

Vs.

1) Lilabai Shivram Waghmare
& 2 Ors.

...Respondents

Mr. Yogesh Pande for applicants.

Ms. Deepika Prabhala for orig. appellant No.1-insurer.

CORAM : N. J. JAMADAR, J.

DATE : 12th OCTOBER , 2021

P.C.:

1. Heard the learned counsel for the applicants and the learned counsel for the appellant-insurer.

2. This application is preferred seeking permission to withdraw the amount of compensation deposited by the appellant-insurer in terms of the award in MACP No. 843 of 2012 dated 12th February 2015, passed by the learned Member, MACT, Pune.

3. The applicants aver that the applicant No.1, who is the mother of the deceased, is bed ridden. The applicant No.2 is also physically disabled. The applicants were wholly dependent upon the deceased for their livelihood. Thus, the applicants be permitted to withdraw the amount of compensation awarded by the Tribunal.

4. The learned counsel for the appellant-insurer resisted the prayer. It was submitted that the insurer is aggrieved by the determination of the compensation by the Tribunal by construing the income of the deceased on a higher side and in not deducting the one half of the income towards his personal expenses as the deceased was a bachelor. Evidently, the challenge in appeal is principally to the determination of quantum of compensation.

5. In the circumstances of the case, the claim of the applicants that they were dependent upon the income of the deceased for the livelihood cannot be said to be unreasonable. The applicants would require the amount to meet the necessities of life. The concern of the appellant-insurer can be taken care by directing the applicants to furnish an undertaking. In this view of the matter, the applicants can be permitted to withdraw 65% of the amount of compensation along with interest accrued thereon.

6. Hence, the following order :

O R D E R

- (i) Application stands allowed.
- (ii) The applicants be permitted to withdraw 65% of the amount deposited by the appellant-insurer alongwith the interest accrued thereon, subject to furnishing an undertaking before the Tribunal that in the event the appeal is allowed, they will bring back the amount alongwith interest at such rate as the Court may direct.

The application accordingly stands disposed of.

(N. J. JAMADAR, J.)