

Santosh

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

**INTERIM APPLICATION NO. 3269 OF 2021
IN
FIRST APPEAL NO. 368 OF 2021**

Laxmi Pravin Choudhary & ors. ...Applicants

In the matter between

Reliance General Insurance Co. Ltd. ...Appellant

Versus

Laxmi Pravin Choudhary & ors. ...Respondents

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Ms. Varsha Chavan, for the Applicants.

Mr. Pandit Kasar, for the Respondent/Appellant.

CORAM: N. J. JAMADAR, J.

DATED : 15th NOVEMBER, 2021

PC:-

1. Heard Ms. Chavan, the learned Counsel for the applicants and Mr. Kasar, the learned Counsel for the respondent/appellant – insurer.
2. This application is preferred for withdrawal of the amount deposited by the appellant – insurer in terms of the impugned judgment and award in Application No.1335 of 2015, dated 11th January, 2021, passed by the learned Member, MACT, Mumbai.
3. The learned Counsel for the applicants submits that applicant no.2 - Ms. Tanushree, who was then a minor, has attained majority.

4. The learned Counsel for the appellant - insurer resisted the prayer for withdrawal of the amount of compensation. It was submitted that in the event the appeal is allowed, the appellant – insurer will be left in lurch if the applicants are permitted to withdraw the entire amount of compensation. By the impugned award, the learned Member has ordered payment of compensation to the tune of Rs.60,72,200/-, inclusive of NFL alongwith the interest at the rate of 8% p.a. from the date of the application.

5. The learned Member further directed that out of the said amount, an amount of Rs.24,00,000/- be paid to claimant no.1 Smt. Laxmi, who is the wife of the deceased and the mother of claimant no.2 - Ms. Tanushree and claimant no.3 - Ms. Vanshika, and Rs.13,00,000/- be paid to claimant no.4 - Smt Shobha, the mother of the deceased. The learned Member further directed that the balance amount be invested in the name of claimant no.2 - Ms. Tanushree and claimant no.3 - Ms. Vanshika and claimant no.1 – Smt. Laxmi in the ratio of 35%, 35%, 30%, respectively.

6. The learned Member has passed appropriate orders to protect the interest of the minor claimants and ordered to release a portion of the compensation to facilitate the applicants meet the necessities of life.

7. The fact that the applicants require the amount to meet the necessities of life, can hardly be contested. In the circumstances, it would be appropriate to allow the applicants to withdraw a portion of the amount of compensation deposited by the appellant – insurer, subject to furnishing an undertaking, before the Tribunal that, in the event the appeal is allowed the applicants will bring back the amount alongwith the interest at such rate as may be decided by the Court.

8. Hence, the following order:

: O r d e r :

- (i) The application stands allowed.
- (ii) Out of the amount deposited by the appellant – insurer, applicant no.1 – Smt. Laxmi be permitted to withdraw an amount of Rs.24,00,000/- alongwith the interest accrued thereon and applicant no.4 - Smt. Shobha be permitted to withdraw an amount of Rs.13,00,000/- alongwith the interest accrued thereon in terms of the impugned award and applicant no.2 – Ms. Tanushree, who is stated to have attained majority, be permitted to withdraw 50% of the amount of compensation falling to her share alongwith the interest accrued thereon, in terms of paragraph 5(a) of the impugned award,

subject to the applicants furnishing an undertaking, before the Tribunal that, in the event the appeal is allowed the applicants will bring back the amount alongwith interest at such rate as may be decided by the Court.

- (iii) Liberty to the applicants to move for further withdrawal, in the event of necessity.
- (iv) The application stands disposed of.

[N. J. JAMADAR, J.]