

Santosh

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

**SANTOSH
SUBHASH
KULKARNI**

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KULKARNI
Date: 2021.10.27
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**INTERIM APPLICATION NO. 4295 OF 2019
IN
FIRST APPEAL (ST) NO. 14151 OF 2017**

Manjushree Mahesh Shahane & ors. ...Applicants

In the matter between

Royal Sundaram Alliance Insurance
Company Ltd.

...Appellant

Versus

Manjushree Mahesh Shahane & ors.

...Respondents

Mr. Abhijit Desai, a/w Mr. Sandeep Jinsiwale, for the
Applicants/for the Respondent in FA.

Mr. Nikhil Mehta, i/b KMC Legal Venture, for the Respondent
in IA/for the Appellant in FA.

CORAM: N. J. JAMADAR, J.

DATED : 25th OCTOBER, 2021

PC:-

1. Heard Mr. Desai, the learned Counsel for the applicants and Mr. Mehta, the learned Counsel for the respondent – appellant – insurer.

2. This is an application for withdrawal of the amount of compensation deposited by the appellant – insurer in terms of Award in MACP No.3095 of 2010, dated 14th December, 2016, passed by the learned Member, MACT, Mumbai.

3. Applicant no.1 is the wife of deceased and applicant nos.2 to 4 are the minor children of the deceased, whereas applicant no.5 is the mother of the deceased.

4. There are averments in the application in justification of the prayer for withdrawal. In the light of the situation in life, the claim of the applicants that they require the amount to meet the necessities of life, cannot be said to be unreasonable.
5. The learned Counsel for the appellant – insurer resisted the application on the ground that there is a fair chance of success in the appeal and if the applicants are permitted to withdraw the amount and, eventually, the appeal is allowed, the insurer would suffer prejudice. The concern of the appellant – insurer can take care of by imposing appropriate conditions.
6. Hence, the following order:

: O r d e r :

- (i) The application stands partly allowed.
- (ii) The applicants are permitted to withdraw 60% of the amount of compensation falling to the share of the respective applicants alongwith the interest accrued thereon, upon 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 may be directed by the Court.
- (iii) The civil application stands disposed of.

[N. J. JAMADAR, J.]