

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAF) NO.2024/2021 IN
FIRST APPEAL NO.305/2021

Union of India, through General Manager South East Central Railway, Bilaspur Vs.
Bhagyashali wd/o Sahebrao Gawai and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri Bawankule, Advocate h/f Shri S.V.Purohit, Advocate
for appellant.

Ms Priya A. Thakre, Advocate for respondents.

CORAM : S.M. MODAK, J.

DATE : OCTOBER 26, 2021.

This Court as per the order dated 14/09/2021 passed on Civil Application No.1405/2021 has permitted the respondents to withdraw entire amount with accrued interest as mentioned in the award. The award says of Rs.8,00,000/- compensation along with the interest. Out of Rs.8,00,000/- , Rs.50,000/- was directed to be deposited in the bank account of claimant no.1- Bhagyashali wd/o Sahebrao Gawai whereas further distribution is as follows:

- a) Rs.4,50,000/- to claimant no.1- Bhagyashali wd/o Sahebrao Gawai,
- b) Rs.1,00,000/- each to claimant no.2- Priyanka d/o Sahebrao Gawai, claimant no.3- Nehal d/o Sahebrao Gawai and claimant no.4- Akshara d/o Sahebrao Gawai.

2. So contention of the claimants is that if the amount is withdrawn as per the arrangement in the award, they will get only a meager amount of Rs.50,000/- It is

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contended that claimant no.2- Priyanka d/o Sahebrao Gawai has now become major and her needs have increased. There is opposition for modification and if at all, it is to be considered, it should be subject to condition.

3. There was an alternative to hear this appeal finally. However, the appellant submitted that record will be necessary. In view of that the final hearing could not be conducted. It will be heard on the next date. The appellant is at liberty to file copies of evidence on record. On that basis, the appeal can be heard without calling record and proceedings.

4. It is true that there was a direction to bifurcate an amount of Rs.4,50,000/- in to 36 months by the Tribunal. It will be also difficult practically and it will also be difficult to release the amount. This Court cannot substantially modify the arrangement unless exceptional case is pointed out and unless the matter is finally disposed of. I think minor modification is permissible.

5. Considering the claimant no.1 becoming major and considering the fact that claimant no.1 has to incur expenses of herself and three daughters certain modification is justified. Hence, the following order:

- i) The Nazar is directed to transfer an amount of Rs.50,000/- along with accumulated interest in the bank account of claimant on furnishing necessary details.
- ii) The Nazar is directed to transfer an amount

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of Rs.1,00,000/- in the bank account of claimant no.1- Bhagyashali wd/o Sahebrao Gawai along with accrued interest.

- iii) The Nazar is directed to transfer the amount of Rs.1,00,000/- in the bank account of claimant no.2- Priyanka d/o Sahebrao Gawai.
- iv) The Nazar is directed to transfer accumulated interest on all the amounts in the bank account of respondent no.1.
- v) The Nazar is directed to transfer the yearly interest on the amounts in the bank account of respondent no.1.
- vi) With these directions, the application is disposed of.

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The appellant has already deposited Rs.8,00,000/- yet the amount of interest as ordered by the Claim Tribunal is not deposited.

Appellant to deposit that amount within the period of two months.

The matter be fixed for filing of evidence and documents in the **week starting from 13th December, 2021.**

Once the amount is deposited, claimants are at liberty to ask for withdrawal and it will be considered on merits.

JUDGE