

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

CIVIL APPLICATION (O) NO.2195 OF 2019 IN
FIRST APPEAL NO.134 OF 2021.

[The Bajaj Allianz General Insurance Company Ltd. **..Vrs..** Tahemena
Pravin Arif Mirza Beg and Ors.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
order and Registrar's orders.*

Court's or Judge's

Shri. B. S. Mandhre, Advocate for the Respondent Nos.1 and 2
Shri. B. P. Bhatt, Advocate for the Respondent No.4
Shri. V. G. Wankhede, Advocate for the Respondent Nos.6 and 7.

CORAM : **NITIN W. SAMBRE, J.**
DATE : **8th SEPTEMBER, 2021.**

1. The appellant-Insurance Company has deposited the amount of compensation as was directed by the Claims Tribunal under the Motor Vehicles Act, 1988 of which withdrawal is sought.
2. It is brought on record that Famida Begam Ajij Beg Mirza-respondent No.6 to the claim petition has expired on 26/07/2019. The death certificate so as to substantiate the same is placed on record. The respondent No.6 to the present appeal is the husband of respondent No.7 and claimed to be the only surviving legal heir. As such a prayer is made for permission to withdraw the amount of compensation of the share of respondent No.7 also.
3. The prayer is opposed by the counsel for the appellant on the ground that the appellant has a good case on merits.
4. I have considered the submissions.

5. The Claims Tribunal while dealing with the claim of present respondent Nos.1 and 2, who are widow and minor daughter of deceased Arif Mirza Beg, who was son of respondent Nos.6 and 7, has passed following order in regard to the disbursement of compensation.

ORDER

Petition is partly allowed as under

1. The petitioners and respondent nos.5 and 6 are entitled to get Rs.5,45,000/- (Rupees Five Lacs, Forty-Five Thousand) towards compensation inclusive of the amount of 'no fault liability'.

2. Respondent nos.1 and 2 jointly and severally do pay Rs.2,72,500/- (Rupees Two Lacs, Seventy-Two Thousand and Five Hundred) to the petitioners and respondent nos.5 and 6 with interest @ Rs.7.50% per annum from the date of institution of petition i.e. 30/01/2009 till the realization thereof.

3. Respondent no.4 Bajaj Allianz General Insurance Co. Ltd. do pay Rs.2,19,375/- and respondent no.3 Vijaysingh do pay Rs.53,125/- to the petitioners and respondent nos.5 and 6 with interest @ Rs.7.50% per annum from the date of institution of petition i.e. 30/01/2009 till the realization thereof.

4. The amount of compensation be apportioned amongst the petitioners as under :

Petitioner no.1	:	Rs.1,95,000/- + proportionate costs of the petition + interest.
Petitioner no.2	:	Rs.1,00,000/- + proportionate

		costs of the petition + interest.
Respondent no.5	:	Rs.1,25,000/- + proportionate costs of the petition + interest
Respondent no.6	:	Rs.1,25,000/- + proportionate costs of the petition + interest.

5. Out of the amount payable to petitioner no.1 and respondent nos.5 and 6, Rs.50,000/- each should be invested in the fixed deposit in their names in any Nationalized Bank of their choice for a period of five years with liberty to withdraw the amount of interest accrued thereon, quarterly, if desired. The rest of the amount payable to petitioner no.1 and respondent nos.5 and 6 will have to be directed to be paid by account payee chques.

6. Entire amount payable to petitioner no.2 should be invested in the fixed deposit in her name in any Nationalized Bank of the choice of petitioner no.1 till she attain majority with liberty to withdraw the amount of interest accrued thereon, quarterly, if the petitioner no.1 desired.

7. Respondent nos.1 to 4 do pay proportionate costs of this petition on Rs.5,45,000/- (Rupees Five Lacs, Forty-Five tThousand) to the petitioners as per their proportionate liability and shall bear their own.

8. Award be prepared accordingly.

6. The present applicants, who are respondent Nos.6 and 7 to the appeal are held to be entitled to compensation to the extent of Rs.1,25,000/- with

proportionate interest.

7. It is not clear as to whether only respondent No.6 will succeed to the share of respondent No.7, being husband of deceased respondent No.7.

8. In the aforesaid background, the application can be allowed only to the extent of share of respondent No.6. The respondent No.6 is permitted to withdraw the amount with accrued interest to the extent of his share only upon furnishing an undertaking that in case if the appeal is allowed, the amount shall be redeposited as directed.

9. The application stands allowed and disposed of in the above terms.

10. However, this is not precluded the respondent No.6 to the appeal from taking out a fresh application for apportionment of compensation which has come to the share of respondent No.7.

(NITIN W. SAMBRE, J.)

TAMBE