

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.3271 OF 2022 IN FAST/14521/2007

RHUTIKA PRAVIN BHAMARE

VERSUS

THE NEW INDIA ASSURANCE CO. LTD., AURANGABAD
THROUGH ITS BRANCH MANAGER, DHULE AND OTHERS

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Mr. C.C. Deshpande, Advocate h/f Mr. C.R. Deshpande, Advocate
for the Applicant

Mr. S.S. Dargad, Advocate h/f Mr. Mr. S.G. Chapalgaonkar,
Advocate for Respondent No.1

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 29th MARCH, 2022

PER COURT:-

1. It is an application moved by the applicant for modification of the order dated 05.05.2010 with prayer to grant permission to withdraw the amount of her share of compensation with accrued interest thereon.

2. Heard Mr. C.C.Deshpande holding for Mr. C.R. Deshpande, learned counsel for the applicant and Mr. Dargad holding for Mr. Chapalgaonkar, learned counsel for respondent no.1 / insurance company. Perused the copy of the order dated 05.05.2010.

3. This Court under order dated 05.05.2010 was pleased to allow the original claimants to withdraw an amount of Rs. 4,25,000/-.

4. Mr. Deshpande, learned counsel for the applicant submits that though the order for withdrawal of compensation came to be passed, but till today the amount is not withdrawn by the claimants and it is lying with the Registry. He submitted that the applicant has now become major and she wants her share.

5. Mr. Dargad, learned counsel for respondent no.1 / insurance company opposed to allow this application.

6. Perused the impugned judgment and award passed in M.A.C.P no. 225 of 2002 by the Member, M.A.C.T., Dhule. The Tribunal was pleased to allow the death claim by awarding compensation of Rs.6,50,000/- with interest @ 9% per annum from the date of filing of the claim petition till its realization.

7. It is revealed during the course of argument that claimant no.1 has remarried during the pendency of the claim petition. Claimant no.3 Rhutika has changed her name in the Government Gazette. The father / claimant no.2 is receiving pension in addition

to the pension of his wife. On perusing the operative part of the order passed by the Tribunal, the share of this applicant is carved out at Rs.5,50,000/- with interest thereon. She has now become major and taking education. The application needs to be considered by looking to the genuine need put forth by the applicant.

8. Having considered the submissions of both the sides, I am convinced to allow the prayer

ORDER

(i) The application is hereby allowed by modifying the order dated 05.05.2010 as under:

(a) The applicant is permitted to withdraw Rs. 4,00,000/- with accrued interest thereon from the share of compensation of Rs. 5,50,000/- determined by the Tribunal and deposited by the insurance company in this Court on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

(ii) The civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane