

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

CIVIL APPLICATION NO.4282 OF 2022 IN FAST/23244/2021

**MANGAL RAMESH NIMBHORE AND OTHERS
VERSUS
ROYAL SUNDARAM GENERAL INSURANCE CO. LTD., THROUGH
ITS MANAGER AND ANOTHER**

....
Mr. U.U. Wagh, Advocate for the Applicants
Mr. M.R. Deshmukh, Advocate for Respondent No.1
....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 27th APRIL, 2022

PER COURT:-

1. It is an application for withdrawal of amount of compensation moved by the applicants / claimants.

2. Heard Mr. Umakant Wagh, learned counsel for the applicants / claimants and Mr. M.R. Deshmukh, learned counsel for respondent No.1 / insurance company. Perused the impugned judgment and award passed in M.A.C.P. No. 544 of 2013 by the Member, M.A.C.T. at Ahmednagar.

3. It is a death claim. The tribunal was pleased to assess the compensation of Rs. 21,50,000/-. The applicants / claimants are seeking the entire amount of compensation.

4. Mr. Wagh, learned counsel for the applicants / claimants submitted that the Tribunal has committed an error in not considering the future prospects.

5. Mr. Deshmukh, learned counsel for the appellant / insurance company submitted that the Tribunal has not considered the defence of contributory negligence even though it is the case of head on collision in the center of the road. He submitted that the Tribunal has also not considered the aspect of the deduction while determining the income of the deceased, which is an apparent error in the impugned judgment. He, therefore, oppose to allow this application.

6. Having considered the submissions of both the sides and looking to the facts of the case, I am convinced to allow the applicants / claimants to withdraw 50% of the amount of compensation as under.

ORDER

(i) The applicants / claimants are hereby permitted to withdraw 50% of the amount of compensation with accrued interest thereon deposited by respondent no.1 / insurance company in this Court

on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court

(ii) Remaining 50% of the amount of compensation with accrued interest thereon shall be invested in the fixed deposit with any nationalized Bank initially for a period of one year with clause of renewal.

(iii) Liberty granted to the applicants/ claimants to file fresh application for withdrawal of amount under change in circumstances as and when occurred.

(iv) The civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P Rane