

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

CIVIL APPLICATION NO.5487 OF 2022 IN FA/55/2022

**MANGALBAI W/O ASHOK SONWANE AND OTHERS
VERSUS
SHAMSUNDAR S/O CHAMPALAL LADDA (DIED) THROUGH LRS.
SHIVKANYA AND OTHERS**

....
Mr. Swapnil S. Rathi, Advocate for the Applicants
Mr. A.P. Bhandari, Advocate for Respondent Nos.1A to 1C and 2
....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 21st APRIL, 2022

PER COURT:-

1. It is an application for withdrawal of compensation amount moved by the applicants / claimants.
2. Heard Mr. S.S. Rathi, learned counsel for the applicants / claimants and Mr. A.P. Bhandari, learned counsel for the respondents.
3. Mr. Rathi, learned counsel for the applicants / claimants submitted that this Court while granting stay was pleased to direct the appellants to deposit 70% of the decretal amount with accrued interest thereon in this Court and protected the interest of the appellants by retaining 30% amount of the compensation.

As such, the claimants may be allowed to withdraw that 75% amount of compensation deposited by the appellants. He submitted that applicant Nos.2, 3 and 5 are taking education and applicant No. 4 has reached marriageable age.

4. Mr. Bhandari, learned counsel for the appellants strongly opposed to allow this application. He submits that the involvement of the vehicle is disputed. At the most, claimants may be allowed to withdraw the amount as per clause No. 4 of the operative order passed by the Tribunal, which may take care of education and other expenses of the applicants / claimants.

5. I have considered the submissions of learned counsel for both the sides. Perused the impugned judgment and award passed by the Tribunal. The Tribunal has awarded the compensation of Rs.22,57,354/- including the N.F.L. amount with interest @ 7% per annum. The appellants have deposited 70% amount of compensation with interest.

6. It is evident from the record that the applicant No.1 is the widow of the deceased, who is shouldering the responsibility to maintain her children applicant Nos. 2 to 5. Applicant Nos. 3 and 5 are taking education. Applicant No.4 stated to be reached at

marriageable age. The applicants are seeking withdrawal of compensation amount in the above background. As pointed out earlier, the appellants have deposited 70% amount of compensation and I am of the considered view that if the applicants / claimants are allowed to withdraw 60% amount of compensation, it may serve the purpose and also protect the interest of the appellants.

ORDER

(i) The application is hereby allowed as under:

(a) The applicants / claimants are hereby permitted to withdraw 60% amount of compensation from the amount deposited by the appellants in this Court, as per the award passed by the Tribunal with interest on furnishing on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

(b) It is stated that all applicants are major and they are operating their independent savings accounts. As such, the Registry to transfer the amount of Rs. 12,00,000/- with interest in the account of applicant No.1 Smt. Mangalabai W/o Ashok Sonawane and transfer the remaining amount with interest equally amongst applicant Nos. 2 to 5.

- (c) Remaining balance 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 renewal clause.
- (ii) The civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P. Rane