

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

924 CIVIL APPLICATION NO.5919 OF 2022
IN FAST/41089/2019

REKHA SANTOSH LONDHE AND OTHERS
VERSUS
UNITED INDIA INSURANCE CO. LTD., THR ITS DIV. MANAGER,
AURANGABAD AND ANOTHER

...
Advocate for Applicants : Mr. Sambhaji S. Wakure.
Advocate for Respondent No.1 : Mr. A. G. Kanade.
Advocate for owner of vehicle : Mr. B. R. Kedar.
...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 26th April, 2022.

P.C.:

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

2 Heard Mr. S. S. Wakure, learned counsel for the applicants and Mr. Kanade learned counsel for respondent No.1/insurance company.

3 Perused the impugned judgment and award passed in MACP No.230 of 2015 by the MACT, Osmanabad. It is a death claim. The Tribunal was pleased to award compensation of Rs.38,62,000/- including NFL amount with interest at the rate of 7% per annum.

4 It is revealed during the course of argument that the appellant/insurance company has preferred this appeal mainly on two

grounds; one, the driver was not holding effective driving licence on the date of accident and secondly, the defence of contributory negligence is not considered by the Tribunal.

5 Mr. Kedar, learned counsel for owner of the vehicle is also present.

6 On going through the impugned judgment and the findings recorded therein, it is revealed that the Tribunal has turned down the defence raised by the insurance company. At this stage, it may not be appropriate to touch the merits of the appeal. That exercise would be made at the time of final hearing of the appeal. The applicants/claimants seem to be dependent on the income of the deceased. Having considered the submissions of both the sides and looking to the facts of the case and the grounds of appeal, it would be appropriate to allow the applicants/claimants to withdraw 50% of the amount of compensation with accrued interest thereon, which would meet the ends of justice. Hence, the following order is passed:

ORDER

- I. The application is hereby allowed.
- II. The applicants/claimants are hereby permitted to withdraw 50% of the amount of compensation with

accrued interest thereon on furnishing usual undertaking with the Registrar (Judicial) of this Court.

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

IV. The application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

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