

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

914 CIVIL APPLICATION NO.1270 OF 2019
IN FA/4342/2017

SHAILA SAMPAT BELOTE AND ORS

VERSUS

SAYYED ILIYAS SAYYED NIZAMUDDIN
AND ANR

...

Advocate for Applicants : Mr D.A. Bide
Advocate for Respondent No. 2 : Mr A.S. Usmanpurkar

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 22nd APRIL, 2022

PER COURT :

1. It is an application for withdrawal of compensation amount moved by the applicants/original claimants.
2. Heard Mr D.A. Bide, learned counsel for the applicants and Mr A.S. Usmanpurkar, learned counsel for respondent No. 2.
3. Perused the impugned Judgment and award passed in MACP No. 740/2010.
4. It is a death claim and the Tribunal was pleased to award compensation of Rs.10,90,644/- with interest @ 9% per annum.
5. It is revealed during the course of argument that the insurance company has challenged the impugned Judgment and award passed by the Tribunal mainly on two grounds, (1) defence of contributory negligence is not considered by the Tribunal and secondly, improper calculation of income of the deceased.

6. Having considered the submissions of both the sides, I am convinced to allow the claimants to withdraw 50% of the amount of compensation which would meet the ends of justice.

ORDER

- (i) The application is hereby allowed.
- (ii) The applicants/original claimants are permitted to withdraw 50% of the amount of compensation with accrued interest thereon on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- (iii) Remaining amount of compensation be invested in Fixed Deposit Account in any nationalized bank for a period of one year initially with renewal clause.
- (iv) The civil application is accordingly disposed of.
- (v) The appeal be listed for admission on 21.06.2022.

(SHRIKANT D. KULKARNI, J.)

mta