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

930 CIVIL APPLICATION NO. 115 OF 2022
IN FAST/27391/2018

POOJA BABURAO GAIKWAD AND ANOTHER
VERSUS
BRANCH MANAGER, ICICI LOMBARD MOTOR INSURANCE CO. LTD., MUMBAI AND OTHERS

...

Mr. M. N. Kolhe, Advocate for Applicants.
Mr. A. G. Choudhari, Advocate for Respondent No.1.
Mr. K. M. More, Advocate for Respondent Nos.2 & 3.

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WITH

CIVIL APPLICATION NO. 116 OF 2022
IN FAST/27391/2018

SUNDARABAI MOGAL GAIKWAD AND ANOTHER
VERSUS
BRANCH MANAGER, I.C.I.C.I LOMBARD MOTOR, MUMBAI AND OTHERS

...

Mr. K. M. More, Advocate for Applicants.
Mr. A. G. Choudhari, Advocate for Respondent No.1.
Mr. M. N. Kolhe, Advocate for Respondent Nos.5 & 6.

...

CORAM : **SHRIKANT D. KULKARNI, J.**
DATE : 13th January, 2022.

P.C.:

. Heard Mr. Kolhe and Mr. K. M. More, learned counsel for respective applicants/claimants.

2 In Civil Application No.115 of 2022, issue notice to respondent Nos.1 to 6. Mr. Choudhari, learned counsel waives notice for respondent No.1/insurance company and Mr. K. M. More, learned

counsel waives notice for respondent Nos.2 and 3/parents of the deceased. It is stated across the bar that respondent No.6/Divisional Controller, MSRTC is formal party. The deceased was driving the motorcycle, which was knocked down by the MSRTC bus, which was taken on lease from respondent No.5/Prasanna Keshav Patwardhan.

3 In Civil Application No.116 of 2022, issue notice to respondent Nos.1 to 6. Mr. Choudhari, learned counsel waives notice for respondent No.1/insurance company and Mr. Kolhe, learned counsel waives notice for respondent Nos.5 and 6/widow and son. It is stated across the bar that respondent No.4/Divisional Controller, MSRTC is formal party. The deceased was driving the motorcycle, which was knocked down by the MSRTC bus, which was taken on lease from respondent No.3/Prasanna Keshav Patwardhan.

4 Civil Application No.115 of 2022 is moved by the applicants (widow and minor son) for withdrawal of compensation amount, whereas Civil Application No.116 of 2022 is moved by the parents of the deceased to withdraw their remaining part of compensation.

5 Heard Mr. Kolhe and Mr. K. M. More, learned counsel for respective applicants/claimants and Mr. Choudhari, learned counsel for respondent/insurance company. Perused the earlier order passed by

this Court dated 13th September, 2019 in Civil Application Nos.10421 and 10426 of 2019.

6 Perused the impugned judgment and award passed by the Mother Accident Claims Tribunal, Aurangabad in M.A.C.P. No.802 of 2010. The Tribunal was pleased to partly allow the claim determining the compensation at Rs.87,52,400/- alongwith interest at the rate of 8% per annum from the date of claim till its realization. The insurance company has deposited an amount of Rs.1,37,53,261/- in this Court.

7 Mr. Kolhe and Mr. K. M. More, learned counsels for respective applicants/claimants urged to allow their applications for withdrawal of amount. Both of them submitted that the applicants are in need of money due to Covid-19 pandemic. Mr. More submits that the parents are old aged and they have no source of income.

8 Mr. Choudhari, learned counsel for insurance company opposed to allow these applications on the ground that these are the second applications for withdrawal of amount moved by the respective applicants/claimants. He has pointed out that the widow has been allowed to withdraw Rs.8,00,000/- and Rs.3,50,000/- each allowed to be withdrawn by the parents. Accordingly, they have withdrawn their amounts in view of the order passed by this Court dated 13th September, 2019.

9 I have gone through the order passed by this Court dated 19th September, 2019. There are certain observations made by this Court while allowing the first applications for withdrawal of amount. Applicant No.1/widow was allowed to withdraw an amount of Rs.8,00,000/- and it was directed that the remaining amount shall be invested in fixed deposit. Applicant No.2 is stated to be minor and his amount was directed to be invested in the fixed deposit. The parents have been allowed to withdraw Rs.3,50,000/- each out of their Rs.5,00,000/- compensation.

10 True it is that we are facing Covid-19 pandemic. However, it cannot be overlooked that the widow and parents have been earlier allowed to withdraw substantial amount to meet their day-to-day expenses. There are no extraordinary circumstances to allow these applications. So far as difficulty faced by the applicant/widow regarding withdrawal of interest on the fixed deposit, direction can be issued to the Registry to make payment of interest on the fixed deposit. The applicant/widow may furnish the details to that effect with the Registry so that it would be convenient for her to get the interest.

11 Having regard to the above reasons and discussion, I do not find any genuine need to allow these applications in view of earlier observations made by this Court vide order dated 19th September,

2019 in Civil Application Nos.10421 and 10426 of 2019. Hence, the following order is passed:

ORDER

I. Civil Application Nos.115 and 116 of 2022 filed by the respective applicants stand rejected.

II. The Registry is directed to make payment of interest to the applicant/widow in Civil Application No.115 of 2022 in respect of her share and the share of her minor son invested in the fixed deposit.

III. The applicant/widow Pooja shall furnish necessary details with the Registry so that the Registry may make payment without any hurdle.

IV. With these observations, both the civil applications stand disposed of.

[SHRIKANT D. KULKARNI, J.]

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