

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

16 CIVIL APPLICATION NO.309 OF 2022
IN FA/1986/2020

ARVINDA JAGANNATH BORSE AND OTHERS
VERSUS
THE ORIENTAL INSURANCE CO. LTD., THR ITS AUTHORIZED
SIGNATORY, AURANGABAD AND OTHERS

Mr M.M. Bhokarikar, Advocate for applicants
Mr Dhananjay Deshpande, Advocate for respondent No.1/Insurance
Company

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 25th April, 2022

PER COURT :

1. It is an application moved by the applicants for withdrawal of entire amount of compensation deposited by respondent No.1/Insurance Company.
2. Heard Mr M.M. Bhokarikar, learned Advocate for applicants and Mr Dhananjay Deshpande, learned Advocate for respondent No.1/Insurance Company. Mr Bhokarikar makes it clear that applicants are seeking withdrawal of compensation amount to the extent of their share as determined by the tribunal.
3. Mr Dhananjay Deshpande, learned Advocate for respondent No.1/Insurance Company strongly opposed to allow this application. He submitted that the Insurance Company has filed the appeal mainly on the grounds (i) improper application of multiplier, (ii) exorbitant compensation awarded by the tribunal and (iii) defence of contributory negligence not considered by the tribunal. He submitted that appeal may be heard finally at admission stage.

4. Having considered the submissions of both the sides, I have gone through the impugned judgment passed in M.A.C.P. No.191 of 2011 dated 3.1.2020 by the Chairman, M.A.C.T., Jalgaon. On going through the impugned judgment, particularly paragraph 13, it is revealed that the deceased had left behind two wives, one is petitioner No.1/Jijabai Jagannath Borse and another is Mangala Jagannath Borse. In view of arrangement between the parties, the tribunal has made apportionment of the compensation amount and given 1/2 share to each wife. Now, Mangala Jagannath Borse along with her children has moved this application for withdrawal of amount of their share.

5. Having considered the submissions of both the sides and looking to the grounds raised in the appeal memo, I am of the view to allow applicant No.4 who is the widow of the deceased to withdraw Rs.7 lakhs with interest accrued thereon which would protect the interest of the appellant as well.

ORDER

(i) The application is hereby allowed.

(ii) Applicant No.4/Mangala Jagannath Borse is hereby permitted to withdraw an amount of Rs.7,00,000/- (Rs.Seven lakhs) with accrued interest thereon from the amount in deposit with the Registry on furnishing usual undertaking to the satisfaction of Registrar (Judicial) of this Court.

(iii) Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)