

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

964 CIVIL APPLICATION NO.2774 OF 2022
IN
FAST/3476/2018

MANJULABEN NARAYAN PATEL AND ORS
VERSUS
VIVEK PANDHARINATH CHAVAN AND ANR

Ms Savita P. Kakade, Advocate h/f Mr P.B. Kakade, Advocate for applicants
Mr A.M. Gholap, Advocate for respondent no.1

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 1st March, 2022

PER COURT :

1. It is an application for withdrawal of amount moved by the applicants.
2. Heard Ms Savita P. Kakade holding for Mr P.B. Kakade, learned Advocate for respondents no.1 to 4 and Mr A.M. Gholap, learned Advocate for appellant/owner of the vehicle.
3. It is revealed during course of argument that the tribunal was pleased to award compensation of Rs.10,49,000/- inclusive of NFL with interest @ 6% per annum fastening the liability jointly and severally on original respondents no.1 and 2. That impugned award is challenged before this Court and it is under scrutiny. The question is about payment of compensation.
4. Mr Gholap, learned Advocate for respondent no.1 strongly opposed to allow the application in view of defence raised by the appellant regarding non-involvement of the vehicle. He invited my attention to the fact that date of accident is 23.9.2010. Accident had taken place on that day at about 1.45 p.m. The F.I.R. came to be registered on 25.9.2010 after causing delay of two days. He submitted that the involvement of the vehicle shown by the original claimants is by way of preplan. The tribunal has not properly considered the defence raised by the owner of the vehicle. He, therefore, urged to reject the application.

5. Per contra, Ms Kakade, learned Advocate for applicants/claimants submits that the tribunal has considered all these aspects and accordingly determined the amount of compensation. The applicants may be allowed to withdraw 100% amount of compensation.

6. It is further revealed during course of argument that out of compensation amount awarded by the tribunal, the appellant has deposited 60% which comes to Rs.6,40,400/-. The appellant has also deposited Rs.25,000/- by way of statutory deposit while filing the appeal in addition to abovesaid amount of Rs.6,40,000/-.

7. Having regard to the submissions of the learned Advocate for applicants/claimants and looking to the defence raised by the appellant, if the original claimants are allowed to withdraw 50% of the amount in deposit that would meet the ends of justice.

ORDER

(i) The applicants/original claimants are hereby permitted to withdraw 50% of amount of compensation along with accrued interest thereon on furnishing usual undertaking to the satisfaction of Registrar (Judicial) of this Court, which could take care of interest of the appellant.

(ii) The remaining amount be invested in Fixed Deposit in any nationalised Bank initially for a period of one year with renewal clause.

(iii) Civil Application disposed of.

(SHRIKANT D. KULKARNI, J.)