

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1545 OF 2020
IN FIRST APPEAL (ST) NO. 12572 OF 2016

SUNITA RAJU (RAJESH) BHADAKWAD AND OTHERS
VERSUS
THE NEW INDIA ASSURANCE COMPANY LTD AND ANOTHER

...
Advocate for Applicants : Mr. Sk. Mazhar A. Jahagirdar
Advocate for Respondent No.1 : Mr. A.M. Ambhore
....

CORAM : S.G. DIGE, J.
DATE : 28th July, 2022

ORDER :

. Heard learned Counsel for applicants and learned Counsel for respondent No.1.

2. Learned Counsel for applicants submit that, respondent No.2 has challenged the judgment and award passed by the Member, Motor Accident Claims Tribunal, Shrirampur in M.A.C.P. No. 223 of 2008. Respondent No.2 has deposited the entire award amount before this Court. Applicant No.1 is the widow of deceased Raju (Rajesh) Ananda Bhadakwad and applicant Nos.2 and 3 are

daughter and son respectively of deceased. Deceased was the Karta of their family. There is no source of income to the applicants. Applicants required amount for education of respondent Nos.2 and 3 as well as daily expenses. Hence, requested to allow the application.

3. Learned Counsel for respondent No.2 submits that, in appeal respondent No.2 has raised various grounds including negligence of the deceased. The learned Tribunal has passed pay and recover order but there is breach of policy hence, such types of orders cannot be passed. If this Court allows to withdraw the amount to the applicants and respondent No.2 succeeds in appeal, it would be difficult for respondent No.2 to recover the amount from applicants. Hence, requested to dismiss the application.

4. I have heard both learned Counsel.

5. The learned Tribunal has passed the order against respondent No.2 to pay and recover. The deceased was the Karta of the family. Applicant No.1 is widow whereas

applicant Nos.2 and 3 are taking education therefore, money is required for their education and daily expenses. The grounds raised by the learned Counsel for respondent No.2 can be considered at the time of final hearing. Hence, I pass the following order :-

ORDER

- (a) Application is allowed.
- (b) Applicants are permitted to withdraw 50% amount out of deposited amount along-with accrued interest thereon on furnishing undertaking before learned Registrar (Judicial).
- (c) The Civil Application is disposed of.

[S.G. DIGE, J.]