

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2 OF 2022

IN

FIRST APPEAL NO.234 OF 2022

Smt. Chaya Somnath Ingole & Ors.

...Applicants

In the matter between

Maharashtra State Road Transport
Corporation, Mumbai & Anr.

...Appellants

Versus

Smt. Chaya Somnath Ingole & Ors.

...Respondents

Mr. Kuldeep U. Nikam, for Applicants.

Mr. Amit A. Gharte, for the Appellants.

CORAM : R.I. CHAGLA J

DATE : 05 December 2022

ORDER :

1. Heard learned Counsel for the parties.
2. By this Interim Application, the Applicants are seeking permission to withdraw the entire amount deposited by the Appellant

pursuant to the impugned order dated 19th November 2019 passed by this Court in Civil Application (St) No. 22971 of 2019 (Civil Application No. 5 of 2022) in First Appeal (St) No. 22968 of 2019 (First Appeal No. 234 of 2022).

3. The Applicant No. 1 is the wife of deceased and Applicant Nos. 2 and 3 are their children. The Applicants have stated that the deceased was the only earning member of the family. Applicant No. 1 is stated to be suffering from eye ailments and is to undergo eye surgery. Her knees and joints have become weak and therefore, the Applicants are in dire need of money.

4. It is further, stated by the Applicants that Applicant No. 2 had tested positive for Covid 19 virus and accordingly, Applicant No. 2 had to borrow a loan for the treatment of his family members, who had no means of income as he owns a very small portion of land. Applicant No. 3 is also stated to be in dire need of money as he has to withdraw expenses for his marriage. Accordingly, Applicant Nos. 2 and 3 are also going through financial hardship and therefore, it is finding difficult for them to maintain Applicant No. 1 as well as their own families.

5. Having considering the averments in the Interim Application as well as hardship of the Applicants, and that the deceased was the only earning member of the family, it would be appropriate to permit the Applicants to withdraw the monies deposited by the Appellant with MACT, Pandharpur other than the amount of Rs. 4,00,000/-, which is invested in the fixed deposit in the nationalised bank as per the impugned judgment and order dated 14th December 2018. Hence, the following order is passed. :-

- (i) The Applicants are permitted to withdraw the amount with proportionate interest deposited by the Appellant with MACT, Pandharpur other than the amount of Rs. 4,00,000/- invested in a fixed deposit in the name of Respondent No. 1 in a nationalised bank for a period of five years as per impugned judgment and order dated 14th December 2018. The withdrawal by the Applicants shall be subject to the Applicants furnishing an undertaking against disbursement of the above amount permitted to be withdrawn as per order of this Court to the effect that if the Appellants succeed in the Appeal, the Applicants shall return the above amount

with interest at such rate as shall be determined by
this Court.

(iii) Interim Application is accordingly disposed of.

[R.I. CHAGLA J.]