

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 19027 OF 2022
IN
FIRST APPEAL (ST.) NO. 11515 OF 2022**

Ashok Bhimsha Bansode & Ors. ... Applicants
Versus
The National Insurance Company Limited & Ors. ... Respondents

In the matter between

The National Insurance Company Limited ... Appellants
Versus
Ashok Bhimsha Bansode & Ors. ... Respondent Nos.1
to 4 are Orig. Claimants
and Respondent Nos.5
and 6 are Orig. Opp.
Nos.1 and 2)

Mr. Sachinkumar Rajepandhare for the Applicants/Appellants.
Mr. Sumeet Moholkar for Respondent No.1.

CORAM : R.I. CHAGLA, J.

DATED : 20th DECEMBER, 2022.

ORDER :

1 By this Interim Application the Applicant is seeking permission to withdraw the entire amount deposited by the Appellant with the M.A.C.T., Solapur in M.A.C.P. No.02 of 2017.

2 By order dated 29.06.2022 this Court had stayed of the impugned judgment and award of M.A.C.T., Solapur subject to deposit of the compensation awarded. By further order dated 15.09.2022 it is recorded that the Applicant had deposited the entire amount before the Claims Tribunal, Solapur. Accordingly, execution and implementation of the impugned judgment and award was stayed pending the hearing of the Appeal.

3 The Applicants have stated that Applicant No.1 is 76 years old and is unable to walk, hear and see properly and the doctors have advised him to undergo a cataract operation. Applicant No.2 is also a senior citizen suffering from old age disease and doctors have advised for cataract operation. Applicant Nos.1 and 2 are the parents of the deceased. Applicant No.3 is stated to be jobless and Applicant No.4 is the only working member in the family of the Applicants, working in an electronic showroom. Applicant Nos.1 and 2 have been looking for a groom for Applicant No.4 but have no money for marriage expenses. Personal loan has stated to be taken by the Applicant's family which is in the sum of Rs.2,00,000/-. Accordingly, present Interim Application has been filed.

4 The learned Counsel for the Appellants has submitted that

there is dispute as to the accident having taken place and that the Appellants have raised grounds of Appeal to that effect.

5 Having considered the averments in the Interim Application as well as hardship of the Applicants and taking note of the fact that the Appellants have deposited the entire amount of compensation awarded by M.A.C.T., Solapur, the relief is partly required to be granted. Hence, the following order is passed :

- i) The Applicants are permitted to withdraw 60% of the entire amount deposited by the Appellants with the M.A.C.T., Solapur, subject to furnishing an undertaking against disbursement of the amount that if the Appellants succeeds in Appeal, the Respondent shall return the amount with interest at such rate as determined by this Court.
- ii) If 60% amount is withdrawn by the Applicants, balance amount shall be invested by M.A.C.T., Solapur, in fixed deposit of a nationalized bank.
- iii) Interim Application is accordingly disposed of.

(R.I. CHAGLA, J.)