

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (CAF) No.2333/2021
IN
First Appeal No.134/2021

The Bajaj Allianz General Insurance Co. Ltd. Vs. Tahemena Pravin wd/o Arif Mirza Beg & Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Smt. Mrunal Naik, Advocate for the Appellant.
Shri B.S. Mandhare, Advocate h/f Shri P.S. Mirache, Advocate for Respondent Nos.1 & 2.
Shri B.P. Bhatt, Advocate for Respondent No.4.
Shri V.G. Wankhede, Advocate for Respondent Nos.6 & 7.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 24th JANUARY, 2022.

01] By order dated 8th September, 2021, this Court had allowed the Respondent No.6, the father of the deceased, to withdraw compensation of Rs.1,25,000/- along with proportionate interest accrued thereon. This Court had held that Respondent No.7 had expired and it is not clear whether Respondent No.6 will succeed to the share of Respondent No.7 and hence, no order was passed as regards withdrawal of the share of Respondent No.7. However, liberty was given to Respondent No.6 to file a fresh application for apportionment of compensation, which had come to the share of Respondent No.7. In view of the liberty granted by this Court, the Respondent No.6, the husband of deceased Respondent No.7, has filed this application for release of amount of Rs.1,25,000/-.

02] I have perused the records and considered the submissions advanced by learned counsel for the respective parties.

03] The records reveal that the Respondent No.1 is the widow and the Respondent No.2 is the minor daughter of the deceased. They

were the Claimants in Claim Petition No.121/2009, wherein the Respondent Nos.6 and 7, the parents of the deceased, were arrayed as Respondent Nos.5 and 6. The Tribunal allowed the petition and awarded compensation of Rs.5,45,000/- in favour of Respondent No.1, Respondent No.2 and Respondent Nos.6 and 7. Out of the said amount, the insured and the insurer of the truck i.e. Respondent Nos.3 and 4 in the appeal were directed to pay an amount of Rs.2,72,500/- to the Respondent Nos.1 and 2 and Respondent Nos.6 and 7 with interest at the rate of 7.5% per annum from the date of the petition till final realization. The Appellant/Insurance Company, being the insurer of the jeep, was directed to pay Rs.2,19,375/- and Respondent No.5, insured of the jeep, was directed to pay Rs.53,125/- with interest at the rate of 7.5% per annum from the date of the petition till final realization.

04] The Tribunal had ordered to apportion the amount of compensation as under:

The Respondent No.1 (widow of the deceased)	Rs.1,95,000/- with proportionate interest
The Respondent No.2 (minor child of the deceased)	Rs.1,00,000/- with proportionate interest
The Respondent Nos.6 and 7 (parents of the deceased)	Rs.1,25,000/- each with proportionate interest

05] Shri B.P. Bhatt, learned counsel for the Respondent No.4/ New India Assurance Co. Ltd. (original Respondent No.2 in claim petition) states that the Respondent No.4 has deposited an amount of Rs.2,72,500/- as per the award of the Claims Tribunal. He further

states that the Respondent No.4/New India Assurance Co. Ltd. has not challenged the said judgment.

06] The Appellant/Insurance Company has deposited an amount of Rs.3,28,158/-, which is inclusive of the interest from the date of the petition till the date of the deposit. It is seen that by order dated 8th September, 2021, this Court (Coram: Nitin W. Sambre, J.) had allowed the Respondent No.6 to withdraw an amount of Rs.1,25,000/- from the amount deposited by the Appellant/Insurance Company. It is to be noted that the Respondent Nos.6 and 7 are entitled for compensation of Rs.1,25,000/- each from the total amount payable by both Insurance Companies i.e. the Appellant and Respondent No.4. Hence, they cannot be allowed to withdraw the entire amount from the amount deposited by the Appellant Insurance Company as the Respondent Nos.1 and 2 being the widow and the minor daughter of the deceased also have their share to the said amount. The order dated 8th September, 2021, therefore, needs to be modified to that extent.

07] It is pertinent to note that by order dated 13th January, 2022, this Court had allowed the Respondent No.1 (widow of the deceased) to withdraw compensation of Rs.75,000/- along with proportionate interest accrued thereon, and the amount payable to Respondent No.2 (minor daughter of the deceased) was ordered to be invested in a fixed deposit with any Nationalized Bank till further orders.

08] Hence, Respondent No.6 (father of the deceased) is permitted to withdraw Rs.75,000/- from the amount deposited by the Appellant/Insurance Company with proportionate interest accrued

thereon. From the amount payable to the Respondent No.7, an amount of Rs.20,000/- be paid to the Respondent 6 and the balance amount of Rs.55,000/- be invested in the name of the minor daughter of the deceased initially for a period of six years with further renewal till the date she attains the age of majority.

09] The civil application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)

Vijay