

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

929 CIVIL APPLICATION NO. 7011 OF 2023
IN FIRST APPEAL NO. 222 OF 2023
WITH CA/698/2023 IN FA/222/2023

SMT. SHANTABAI BHIMRAO AMBEDKAR
VERSUS
SHRI RAJENDRA BHIMRAO DENEKAR AND ANOTHER

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Mr. R.C. Bramhankar – Advocate for Applicant
Ms. R.C. Jakhande h/f. Mr. R.B. Mulay – Advocate for
Respondent No.1
Mr. A.B. Gatne – Advocate for Respondent No.2

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CORAM : SANDIPKUMAR C. MORE, J.
DATE : 11th July, 2023

PER COURT :

CIVIL APPLICATION NO. 698 OF 2023

1. Since the appellant – Insurance Company has deposited entire amount of compensation alongwith the interest, the application is made absolute in terms of prayer clause 'B' and disposed of.

WITHDRAWAL APPLICATION

2. Heard rival submissions.

3. The applicant is seeking withdrawal of the entire amount

of compensation, which has been deposited by the Insurance Company alongwith the interest accrued thereon.

4. The learned Counsel for the Insurance Company strongly opposed the application on the ground that, the alleged offending vehicle was at all not involved in the accident and the owner and driver of the same was in fact having tea in one hotel at the time of accident and his aforesaid vehicle was parked in front of that hotel. However, the judgment in the criminal case indicates that, the hotel owner in whose hotel the owner of the offending vehicle was allegedly taking tea has refused the aforesaid defence.

5. The learned Counsel for the Insurance Company also pointed out that, the income of deceased was taken to the tune of Rs.25,000/- per month without any documentary evidence to that effect on record. It was told during the course of argument that, the deceased was only having standing practice of four years and the learned Tribunal had in fact presumed his income to the tune of Rs.25,000/- per month comparing it to the income of medical student.

6. In view of the same and considering the compensation granted by the learned Tribunal, the applicant is permitted to withdraw 40% of the deposited amount of compensation alongwith proportionate interest accrued thereon till date on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.

7. The remaining amount be kept in F.D.R. in any nationalized Bank on yearly renewal basis till final disposal of this appeal.

8. The civil application is accordingly disposed of.

[SANDIPKUMAR C. MORE]
JUDGE