



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

934 WRIT PETITION NO. 11208 OF 2022

1. INDUBAI BALBHIM SONWANE
2. BALBHIM LAXMAN SONWANE

VERSUS

**THE ORIENTAL INSURANCE COMPANY LTD. THROUGH ITS
BRANCH MANAGER AND OTHERS**

...
Advocate for Petitioners : Mr. Jadhav Hanumant P.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 19th DECEMBER, 2023

PER COURT :

1. Heard learned counsel for the petitioner.
2. Though served none appears for the respondents.
3. On 13th April, 2023, this Court issued notice for final disposal to respondent nos. 2 and 3, which was made returnable on 07th June, 2023. The notice of final disposal is served upon the respondents. Mr. S.R. Shirsath, learned Advocate has caused appearance for respondent no. 2. The matter is taken up for final disposal.
4. The petitioners are parents of deceased Shivprasad Balbhim Sonwane, who died in an accident giving rise to MACP No. 44 of 2013, under Motor Vehicle Act. The claim for compensation was filed by the petitioners and respondent no. 3 who is daughter-in-law of the petitioner.

By judgment and award dated 17th January, 2020, the claim of compensation to the extent of Rs. 12,42,400/- was allowed. Respondent no. 3 was held to be entitled to half of the amount of compensation and the petitioners were entitled to remaining half of the compensation. Respondent no. 3 was disbursed the compensation of her share. The compensation of the present petitioners was directed to be invested in a Nationalized Bank. They were permitted to receive the interest. Accordingly, their compensation was invested in State Bank of India, Branch at Shivaji Chowk, Ambajogai, District Beed. A photocopy of the fixed deposit is placed on record which is at page no. 39.

5. The petitioners approached Tribunal at Ambajogai by application Exhibit 59, disclosing the hardship and need of amount of compensation. They prayed to permit them to withdraw the amount invested with the Bank. The request is rejected by order dated 06.05.2022. Being aggrieved present petition is filed.

6. The petitioners are aged and ailing. They need amount of compensation for medical expenses. The medical papers are placed on record to substantiate the claim. The interest which is being disbursed to them is not adequate to meet their demands.

7. Learned counsel submits that there is no dispute about the entitlement of the petitioners. There is no objection or rival claim. The amount is still locked in the Bank. Learned Member of Motor Accident

Tribunal, Ambajogai, should have permitted the petitioners to withdraw the amount after particular period.

8. The documents produced and the pleadings of the petitioners have not been traversed by the respondent. The entitlement of the petitioner for half of the compensation is apparent from the judgment and award passed by the Tribunal. The respondent no. 3 – daughter-in-law was permitted to withdraw the amount, I fail to see any reason for not permitting the petitioners to get the amount of compensation after particular duration. The approach of learned Tribunal in restricting the claim of the petitioner to the extent of interest is incomprehensible, perverse and discriminatory.

9. The petitioners are aged and ailing. They need amount of compensation invested with the Bank for medical expenses. The person who lost his life was their son. The petition deserves to be allowed considering the plight of the petitioners. Hence, I pass following order :

ORDER

- i. The petition is allowed in terms of prayer clause 'C'.
- ii. The petitioners shall be permitted to withdraw the amount along with interest invested with State Bank of India, Branch of Shivaji Chowk, Ambajogai, District Beed.

iii. Learned Member of the Motor Accident Claim Tribunal, Ambajogai, shall take appropriate steps for disbursing the amount to the petitioners.

iv. Writ Petition is disposed of in the above terms.

[SHAILESH P. BRAHME, J.]