



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 CIVIL APPLICATION NO. 14843 OF 2023
IN FA/2797/2023

SAROJA ANATESHWAR SWAMI AND OTHERS
VERSUS
BAJAJ ALLIANCE GENERAL INSURANCE COMPANY LTD. AND
OTHERS

.....

Mr. S. A. Ambilwade, Advocate for Applicants.
Mr. Mohit R. Deshmukh, Advocate for Respondent No.1.

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 14 DECEMBER 2023

PER COURT :-

1. Present application has been filed for withdrawal of amount by the original claimants. It can be considered that the amount that has been deposited by the insurance company-appellant is to the tune of Rs.54,56,032/-

2. Learned Advocate for the appellant insurance company submits that the appeal has been filed to challenge the quantum also and main contention that insurance company wants to advance is that the proprietor concerned which deceased used to run is continued after his death by the claimants and they have received more amount. He relies on the decision in *New India Assurance Company Ltd. v.*

Yogesh Devi and others ; AIR 2012 SC 945, (2012) 3 SCC 613 wherein only supervisory loss was considered for computation of compensation by the Hon'ble Supreme Court when the business was continued by the legal representatives.

3. Here, we will have to strike balance. Claimants have lost the person on whose income they were depending. Though it is stated that the business is continued, yet we cannot rule out the loss that they have suffered and therefore, at least the applicants are entitled to get part amount from the amount that has been deposited.

4. Applicant no.3 is still a minor and learned Advocate for the applicants/original claimants confirms the same. Therefore, we do not want that her share should be given at this stage and therefore applicant nos. 1, 2 and 4 would be entitled to withdraw the amount of Rs.10,00,000/- (Rupees Ten Lakh only) each. Rest of the amount be invested, if not already, as per the procedure.

5. Application stands disposed of.

[ABHAY S. WAGHWASE, J.]

[SMT. VIBHA KANKANWADI, J.]