



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

**INTERIM APPLICATION NO.2955 OF 2019
IN
FIRST APPEAL NO.1365 OF 2014**

Smt. Vaishali Padmakar Bagul

...Applicant

In the matter between
The Managing Director-Pune
Municipal Parivahan Mahamandal
Ltd.

...Appellant

Versus

Smt. Vaishali Padmakar Bagul and
Ors.

...Respondents

...

None for the Appellant.

Mr. Makarand Bakore for the Applicant in IA/2955/2019 and for the
Respondent Nos.1 to 3 in FA/1365/2014.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 23rd AUGUST, 2023.

P.C.:-

1. The Applicant has sought recall of order dated 31/01/2019 passed in Civil Application No.1159 of 2017 whereby this Court had allowed the legal representatives of Respondent No.5 to withdraw the amount, which was apportioned in favour of Respondent No.5.

2. The Applicant is the widow of the deceased -Padmakar Bagul,

who died in a motor vehicular accident. She and her two children had filed claim petition in view of death of Padmakar in a motor vehicular accident. The parents of the deceased were impleaded as Respondent Nos.4 and 5. By judgment dated 10/06/2023 the Claims Tribunal awarded compensation of Rs.67,05,293/- with interest @ 9% p.a. from the date of the application till actual payment. The Tribunal directed to pay an amount of Rs.1,00,000/- each to Respondent Nos.4 and 5 i.e. to the parents of the deceased.

3. The Appellant, the owner of the offending vehicle has challenged the judgment in an appeal under Section 173 Motor Vehicle Act. During the pendency of the appeal the original claimants filed an application for withdrawal of the compensation. By order dated 27/02/2015, the Division Bench of this Court allowed the widow of the deceased to withdraw an amount of Rs.30,00,000/- for herself and on behalf of children and Respondent Nos.4 and 5 being parents of the deceased were allowed to withdraw Rs.5,00,000/- each. It is stated that pursuant to the said order compensation of Rs.5,00,000/- was paid to Respondent No.4, mother of the deceased. Respondent No.5 expired before withdrawal of the compensation. By order dated 31/01/2019 this Court allowed the legal representatives of Respondent No.5 to withdraw

the amount apportioned in favour of Respondent No.5.

4. Learned counsel for the Applicants/Claimants state that the Tribunal had apportioned an amount of Rs.1,00,000/- each to Respondent Nos.4 and 5 and that this Court has allowed Respondent Nos.4 and 5 to withdraw Rs.5,00,000/- each, despite there being no challenge on their behalf. It is further stated that the Applicant is in need of money to meet educational expenses of her children.

5. It is pertinent to note that the Applicants have not challenged the order dated 27/02/2015, whereunder Respondent Nos.4 and 5 were permitted to withdraw Rs.5,00,000/- each. The amount ordered to be paid to the parents is negligible considering the quantum of compensation awarded by the Tribunal. Even otherwise, Respondent No.4 being Class I heir would otherwise be entitled for compensation, more than that apportioned in her favour. Hence, the application has no merits and is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)