

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

CIVIL APPLICATION (CAF) NO. 94/2023 (CAF)
IN FIRST APPEAL NO. 345/2022

The Cholamandalam Gen. Insu. Co. Ltd. Thr. Branch Manager, Nagpur
Vs
Punita Wd/O Rakesh Verma And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mrs Mrunal Naik, Advocate for the appellant.

Mrs U.A. Bhattad, Advocate for the respondent Nos. 1 to 3/applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/02/2023.

1. Heard.
2. This application is filed by the claimants for withdrawal of the amount of Rs. 24,78,645/-.
3. As per the contention of the applicant that deceased was occupant in Maruti Van bearing No. MH-31-CS-4150 and he met with an accident and died. The present respondents, who are wife and the children of the deceased. Due to the death of the deceased, they lost their earning source and now they are facing financial crises. Though award is passed in their favour, they have not granted any single pie towards compensation and hence, they be permitted to withdraw the amount.
4. The said application is strongly opposed by the learned advocate for the appellant, on the ground that defence of the

insurance company is that few hours prior to the accident, the owner of the vehicle has obtained the insurance of the vehicle and therefore, the insurance company is not liable to pay compensation.

5. In view of the reasons mentioned in the application and the objection raised, it would be appropriate to permit the respondent/claimants to withdraw 50% amount of the compensation on usual undertaking.

6. In view of the above, applicant is permitted to withdraw 50% amount of compensation along with accrued interest on usual undertaking and be disbursed to the respondent Nos. 1 to 3 on due identification and verification.

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Heard.

2. **Admit**

3. Mrs U.A. Bhattad, learned Advocate waives service of notice on behalf of respondent Nos. 1 to 3

4. Call for record and proceedings.

5. Appellant to file private paper-book within a period of ten weeks after receipt of record and proceedings.

6. After filing of private paper-book and its verification, appeal be placed before the Court for final hearing.

CIVIL APPLICATION (CAF) No. 729/2022

By this application, appellant is seeking stay to the effect, operation and implementation of the judgment and award passed on 24/02/2021 in Claim Petition No. 668/2016 passed by the Member, Motor Accident Claims Tribunal-4, Nagpur.

2. Appellant has already deposited the amount and respondent/claimants are permitted to withdraw 50% amount of compensation.

3. In view of that effect, implementation, execution and operation of the impugned judgment and award passed in Claim Petition No. 668/2016 is stayed till disposal of the appeal.

Civil application No. 729/2022 is **disposed of**.

JUDGE