

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (F) NO.1881 OF 2022

IN

FIRST APPEAL NO.696 OF 2022

[The Divisional Controller, MSRTC, Nagpur ..V/s.. Varsha Wd/o
Mohansingh Thakaur and Ors.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr V. H. Kedar, Advocate for Applicant/Appellant.
Ms M. H. Pathade, Advocate for Respondent Nos.1 to 3.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 10th APRIL, 2023.

. Present application is for grant of stay to the effect, operation, implementation and execution of the impugned judgment and award passed in Claim Petition No.1342 of 2015 by the Motor Accident Claims Tribunal, Nagpur.

2. Mr Kedar, learned Advocate for appellant submitted that in pursuance of the order dated 20.08.2022, the 75% of the compensation amount is already deposited.

3. In view of the statement made by the learned Advocate for appellant, the effect, operation, implementation and execution of the impugned judgment and award dated 13.01.2020 is stayed, till final disposal of the appeal.

4. Civil application is disposed of accordingly.

CIVIL APPLICATION (F) NO.1024 OF 2023.

5. This application is by the respondent Nos.1 to 4 for seeking permission for withdrawal of the amount.

6. As per the contention of the respondents, deceased was in Government service and died in an accident. Now, due to the death of the deceased, respondent Nos.1 to 4 are facing financial crisis. They have obtained some hand loan from their relatives for the education and maintenance of minor children, and therefore, they be permitted to withdraw the amount of compensation.

7. The said application is strongly opposed by Mr Kedar, learned Advocate for the appellant on the ground that the appellant has challenged the judgment and award on the ground that the learned Trial Court has not considered the contributory negligence of the deceased. Moreover, the amount of compensation awarded is exorbitant and excessive one.

8. In view of the reasons mentioned in the application and objection raised by the learned Advocate Mr Kedar, at this stage, considering the grounds, it will be appropriate to permit the respondent Nos.1 to 4 to withdraw 75% of the amount of compensation alongwith accrued interest, which is deposited before the Court, on usual undertaking.

9. The amount be disbursed to the respondent Nos.1 to 4 on due identification and verification.

10. Civil application is disposed of.

FIRST APPEAL NO.696 OF 2022.

11. Heard.

12. **Admit.**

13. Call for Record and Proceedings.

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

15. Appeal be placed before the Court after filing of the private paper-book, its verification, as per its own turn.

JUDGE