



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

12 CIVIL APPLICATION NO. 4061 OF 2024
IN FAST/36138/2023

GITABAI SOMINATH GADEKAR AND OTHERS
VERSUS
THE CONTROLLER M S R T C AND ANOTHER

...
Advocate for Applicant : Mr. Basarkar Anil P.
Advocate for Respondent No. 1 : Mr. Manoj D. Shinde
...

CORAM : KISHORE C. SANT, J.

DATE : 09 JULY, 2024.

PER COURT :

1. Heard the parties.
2. This application is for withdrawal of the amount deposited by the appellant Corporation in this Court pursuant to the impugned judgment and award.
3. The application is opposed by the learned Advocate for the appellant/Corporation. He submits that in this case, there is clear negligence on the part of the motorcycle driver.

The Corporation has therefore taken a ground of contributory negligence, in such case the Claimant would be entitled only to 50% of the amount of compensation.

4. After hearing the parties, this Court finds that there is a substantial ground raised in the appeal, therefore, it would not be in the interest of the parties to allow to withdraw 100% of the amount. Hence the following order is passed :

ORDER

- a) The application is partly allowed and disposed off.
- b) The applicants/Claimants are allowed to withdraw 50% of the amount deposited in this Court.
- c) The applicant nos. 1, 2, 5 and 6 are entitled to receive 50% of the amount deposited in this Court alongwith accrued interest to the extent of their share, on furnishing usual undertaking that in case the appeal is allowed, they will re-deposit the amount with interest within 12 weeks from such decision.

d) Further 25% of the amount deposited is allowed to be withdrawn with interest accrued on furnishing solvent surety/security to the satisfaction of the Registrar, (Judicial) of this Court.

e) The amount of Claimant No. 3 Pavan and No. 4 Vaishanvi who are minor, they are at liberty to move this Court for withdrawal of the amount after becoming major.

f) The balance of the amount be invested in fixed deposit in any nationalized Bank, to be renewed from time to time, till the decision of the appeal.

**(KISHORE C. SANT)
JUDGE**

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