



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 2201 OF 2024
IN
FIRST APPEAL NO. 1881 OF 2020**

Ratnabai Sanjay Thkare & Ors.

...Applicants

Versus

The Reliance General Insurance Company,
through its Branch Manager A.B.C. Complex,
Adalat Road, Aurangabad.

...Respondent

.....
Mr. H. V. Tungar h/f Mr. V. P. Raje – Advocate for the Applicants
Mr. A. S. Usmanpurkar – Advocate for Respondent No. 1
.....

**CORAM : R. G. AVACHAT
AND
NEERAJ P. DHOTE, JJ.**

DATED : 17TH APRIL, 2024

PER COURT : -

1. This is the application for withdrawal of the amount deposited by the Insurance Company i.e. Appellant pursuant to the Judgment and Award passed by the Member, Motor Accident Claims Tribunal, Dhule, vide Judgment and Order dated 18.01.2020 passed in Motor Accident Claim Petition No. 136 of 2018.

2. We have heard the learned advocate for the Appellant-Insurance Company and the applicants.

3. It is submitted by the learned advocate for the applicants that the Tribunal has apportioned the share of each of claimants/applicants. He submits that he may be allowed to withdraw the amount to his extent.

4. The application is opposed by the learned advocate for the Insurance Company. He submits that their case is of contributory negligence and in case the Insurance Company's appeal is allowed, it would be difficult for them to recover the amount.

5. The Tribunal has passed the following order :

- "1. Petition is partly allowed with proportionate costs.
2. Petitioners are entitled to recover an amount of Rs.93,95,035/- (including N.F.L.) from respondent No.1 to 3 jointly and severally with future interest @ 9% P.A. from date of institution of claim petition till realization of awarded amount.
3. On depositing aforesaid amount by respondent No.1 to 3 in the Tribunal, its appropriation in between petitioner No. 1 to 5, is directed as under :
 - (i) Petitioner No. 1 is entitled to get Rs. 43,95,035/- + interest.
 - (ii) Petitioner No. 2 is entitled to get Rs. 15,00,000/- + interest.
 - (iii) Petitioner No. 3 is entitled to get Rs. 15,00,000/- + interest.
 - (iv) Petitioner No. 4 is entitled to get Rs. 10,00,000/- + interest.
 - (v) Petitioner No. 5 is entitled to get Rs. 10,00,000/- + interest.
4. Out of amount awarded in favour of petitioner No. 1, amount of Rs.25,00,000/- be invested in F.D.R. in any nationalized bank as per choice of her for period of five

years with liberty to her to seek its accrued interest of quarterly rests if she desires and rest of amount be disbursed in her favour by account payee cheque after due identification.

5. Petitioner No.2 and 3 are minor, amount awarded in favour of them be invested in F.D.R. in any nationalized bank as per choice of petitioner No. 1 till attaining the age of majority by them, with liberty to seek its accrued interest of quarterly rests if she desires.
6. Out of amount awarded in favour of petitioner No. 4 and 5 amount of Rs. 5,00,000/- each be invested in F.D.R. in any nationalized bank as per choice of them for period of three years and rest of amount be disbursed in their favour by account payee cheque after due identification.

Award be drawn up accordingly.”

6. Considering the nature of the litigation, we permit the applicants to withdraw 70% of the amount of their share out of the amount deposited by the Insurance Company with interest accrued thereon. The Applicant No. 1 shall submit the necessary undertaking to the satisfaction of the Registrar (Judicial) of this Court. The share of minor applicants be invested in Fixed Deposit Receipt [FDR] in any nationalized bank, till they attend majority.

7. The Application is, accordingly, disposed of.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE