



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

CIVIL APPLICATION NO. 11624 OF 2023 IN FAST/16390/2023

SAKASHI MAHESH@PARASRAM KADAM AND OTHERS
VERSUS
UNITED INDIA INSURANCE CO LTD AND ANOTHER

...
Advocate for Applicants : Mr. Sushant B. Choudhari
Advocate for Respondent No.1 : Mr. A. B. Gatne
...

CORAM : S. G. MEHARE, J.

DATE : 15-03-2024

PER COURT :-

1. Heard the learned counsel for the applicants and the learned counsel for respondent No.1/insurer.
2. The applicants are the wife, two minor children and parents of the deceased. The deceased was a salesman in a cloth shop. Learned Tribunal awarded the compensation of Rs.12,29,000/- with interest @ 9% p.a. The appellant has deposited the entire amount with interest as per the impugned judgment and award.
3. The impugned judgment and award has been impugned on the ground of non-involvement of the offending vehicle in the accident. There was inordinate delay in lodging the first information report and also the quantum has not been properly determined. On the above grounds, the learned counsel for the appellant has serious objection to release the amount to the applicants.

4. Learned counsel for the applicants submits that since the deceased lost the life, his family came on the road. He has two minor children and age old parents and a widow. The claimants have *prima facie* held liable to pay the compensation. The meager compensation has been granted. If they are not allowed to withdraw the amount, they will suffer for a long period as the appeal may take its time for disposal.

5. Perusal of the impugned judgment and award reveals that it has been held that a vehicular accident happened and deceased succumbed to the injuries arising out of the vehicular accident. The grounds of objection is a matter of arguments and appreciation of evidence. The first appeal may take time to decide. Considering the observations of the learned Tribunal, the Court is of the view that the application deserves to be partly allowed.

6. After hearing the bargaining on the point of quantum from both sides and the strong objection of the appellant, the following order is passed;

ORDER

- i) The application is partly allowed.
- ii) The applicants are permitted to withdraw 75% of the amount deposited with this Court with accrued interest, on furnishing undertaking that they would deposit the amount, if the impugned judgment and award is reversed.

- iii) The amount allowed to be withdrawn be apportioned equally.
- iv) Applicant No.1/ the guardian mother shall furnish undertaking for and on behalf of applicants No.2 and 3/ minor children.
- v) The share of applicants No.2 and 3/the children should be invested in the fixed deposit in any Nationalized Bank of the choice of their guardian mother/applicant No.1 till they attain majority, with a right to receive accrued interest at quarterly rests.

(S. G. MEHARE)
JUDGE

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