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

**7 CIVIL APPLICATION NO. 12837 OF 2024
IN FA/1061/2024**

KOMAL DNYANESHWAR THORAT

VERSUS

THE NEW INDIA ASSURANCE CO LTD, HROUGH THE BRANCH
MANAGER, THE NEW INDIA ASSURANCE CO LTD AND ORS

WITH

**CIVIL APPLICATION NO. 4143 OF 2024
IN FA/1061/2024**

WITH

**CIVIL APPLICATION NO. 12838 OF 2024
IN FA/1061/2024**

Mr.N.S. Shah h/f. Mr. S.V. Natu, Advocate for the applicant in CA No.12837 of 2024.

Mr.S.N. Dudhate, Advocate for applicants in CA No.12838 of 2024.

Mr.A.B. Kadethankar, Advocate for respondent No.1./Insurance Company.

CORAM : KISHORE C. SANT, J.

DATE : 05.12.2024

PC :-

CIVIL APPLICATION NO. 12837 OF 2024

01. Heard. There were two petitions filed one by present applicant and one by parents, widowed sister of the decease and her son. While allowing both the claim petitions by common judgment, the learned Tribunal directed payment of 40% of the compensation to the present applicant. 20% each was directed to be paid to the father and mother of the deceased. 10% each was directed to be paid to the widowed sister and her son. The learned Advocate for the present applicant, therefore, submits that this applicant has also filed appeal

challenging the award of compensation to the father, widowed sister and her son. The learned Advocate for the applicant further stated that this Court has already granted stay by order dated 24.06.2024 to the extent of disbursement of the amount to the in-laws except mother-in-law. He thus prays for allowing the applicant to withdraw entire amount of her share as carved out by the learned Tribunal.

02. Considering the above facts, following order is passed :-

(i) The applicant is permitted to withdraw 50% of the amount along with accrued interest out of the amount deposited by the appellant insurance company in the office of this Court on furnishing usual undertaking.

(ii) Remaining amount be kept in the fixed deposit of any nationalized bank till disposal of the appeal.

(iii) The civil application is accordingly allowed and is disposed off.

CIVIL APPLICATION NO. 12838 OF 2024

01. This application is filed for withdrawal of the amount. Applicant No.1 is father, applicant No.2 is mother, applicant No.3 is widow sister of the deceased and applicant No.4 is son of applicant No.3. In the application filed by Komal, this Court by order dated 18.06.2024 granted ad-interim stay to the disbursement of the amount to present applicants,

except applicant No.2, as this Court prima facie finds that applicant Nos.1,2 and 4 cannot be said to be dependent on the deceased. However, applicant No.2 is mother, who is given 20% share in the compensation by the learned Tribunal. In view of this the following order is passed :-

ORDER

- (i) The applicant No.2 is entitled to withdraw 50% of the amount along with accrued interest of her share on furnishing usual undertaking.
- (ii) 25% of the amount along with accrued interest is allowed to be withdrawn on furnishing solvent surety-security to the satisfaction of the Registrar (Judicial) of this Court.
- (iii) The Civil Application is accordingly allowed and is disposed off.

FIRST APPEAL

- 01. Heard.
- 02. Admit.
- 03. Learned Advocate Mr. N.S. Shah h/f. Mr. Natu waives service of notice for respondent No.1. Learned Advocate Mr. Dudhate waives service of notice for respondent Nos. 3 to 6.
- 04. Call for record and proceedings.

05. After receipt of record and proceedings, the parties are at liberty to move this Court for early disposal of the appeal.

[KISHORE C. SANT, J.]