



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL FIRST APPEAL (ST) NO. 13400 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 8631 OF 2024
ALONGWITH
INTERIM APPLICATION NO. 8630 OF 2024**

Cholamandalam Ms General Insurance
Co. Ltd.

...Appellant

vs.

Ruksar Jamil Ahmad Shaikh And Ors.

...Respondents

**ALONGWITH
INTERIM APPLICATION NO. 11209 OF 2024
IN
CIVIL FIRST APPEAL (ST) NO. 13400 OF 2024**

Ruksar Jamil Ahmad Shaikh And Ors.

...Applicants

vs.

Cholamandalam Ms General Insurance
Co. Ltd.

...Respondents

Mr. Akshay R. Kulkarni i/by Sarathak S. Diwan	Advocate for the Appellant/Applicants
Adv. Salim Mohammad Shaikh	Advocate for the Applicants in IA 11209 of 2024

CORAM : S. M. MODAK, J.

DATE : 02nd SEPTEMBER 2024

P. C. :-

INTERIM APPLICATION NO. 8630 OF 2024

1. Heard learned Advocate for the Applicant-Insurance Company

and learned Advocate for the Claimants/Respondent Nos. 1 to 5. Respondent No. 6 is owner. Service report of the notice is awaited. There is delay in filing an appeal. It is opposed. The owner was *ex-parte* before the Tribunal. Delay is condoned.

2. Interim application No. 8630 of 2024 is disposed of.

INTERIM APPLICATION NO. 8631 OF 2024

3. Stay is granted to the execution of the award subject to deposit awarded amount alongwith interest within four weeks.

4. Interim application No. 8631 of 2024 is disposed of.

CIVIL FIRST APPEAL (ST) NO. 13400 OF 2024

5. Learned Advocate for the Respondent Nos. 1 to 5 waives notice of an appeal. Copy be given to him.

6. Issue notice before admission to the Respondent No. 6 returnable on 14th October 2024.

7. Record and proceeding is called.

8. Compilation be filed.

9. Matter be kept on **14th October 2024.**

INTERIM APPLICATION NO. 11209 OF 2024

10. Heard learned Advocate for the Claimants and learned Advocate for the Insurance Company.

11. The amount deposited before the Tribunal is 01,10,49,319/- (One Crore Ten lakhs Forty Nine thousand three hundred and nineteen rupees, that is mentioned in para no. 8 of this application.

12. Applicant No. 1 is wife of the deceased. Whereas Applicant Nos. Nos. 4 and 5 are the parents of the deceased. Applicant Nos. 2 and 3 are minor children of the deceased. As per impugned award apportionment made is as follows:-

- a) Claimant No. 1 to get 30%.
- b) Claimant Nos. 2 and 3 will get 25% each, but it is to be deposited till attain the age of majority.
- c) Claimants Nos. 4 and 5 will get 10% each.

13. So from the deposited amount 50% is to be invested in the Fixed deposit. The amount which remains is Rs. 60,49,319/-. It is true that the children are the depending upon their mother. This needs to be considered. So also age of the Parents needs to be considered.

14. Hence following order is passed:-

ORDER

- (i) Applicant No. 1 – Ruksar Jamil Ahmad Shaikh is permitted to withdraw Rs. 25,00,000/- in lump sum.
- (ii) Applicant No. 4-Mr. Mehmood Ahmed Noor Mohammed

Shaikh and Applicant No.5-Mrs. Husna Bano Mehmood Ahmed Shaikh are permitted to withdraw Rs. 7,50,000/- each in lump sum on furnishing usual undertaking.

(iii) Applicant No. 1-Ruksar is permitted to apply before the tribunal for withdrawal of the interest that will accrue on fixed deposit invested in the name of the two minor children i.e. Applicant Nos. 2 and 3.

(iv) Remaining amount after above disbursal be kept in deposit as per the Rules.

15. Interim Application No. 11209 of 2024 is disposed of.

[S. M. MODAK, J.]