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

**INTERIM APPLICATION NO. 10693 OF 2024
IN
FIRST APPEAL NO. 693 OF 2024**

1. Smt. Sujata Dhiren Tiwari
Age 42 years, Occupation : Business
2. Master Mohit Dhiren Tiwari
Age 18 Years, Occupation : Student,
3. Master Rohit Dhiren Tiwari
Age 14 years, Occupation: Student,
No.3 being minor represented through
Natural Guardian Mother Respondent No.1.
4. Mr. Shivprasad Shriram Tiwari,
Age 73 years, Occupation : Nil,
5. Mrs. Usha Shivprasad Shriram Tiwari,
Age 59 years, Occupation: Business,
All R/at :- Flat No.104, Section R-21,
Tower No.30, Trendy Towers,
Amanora Park Town, Hadapsar,
Pune – 411 028.

...Applicants
(Orig. Res. Nos.1 to 5 in
First Appeal

In The Matter Between The Parties

The Managing Director
Pune Mahanagar Parivahan
Mahamandal Limited, (PMPML)
Pmt Building, Swargate, Pune - 411037

... Appellant

Versus

- 1) Smt. Sujata Dhiren Tiwari,
Age 42 years, Occupation: Business,
- 2) Master Mohit Dhiren Tiwari,
Age 18 years, Occupation : Student,
- 3) Master Rohit Dhiren Tiwari,
Age 14 years, Occupation: Student,
No. 3 being minor represented through
Natural Guardian Mother Respondent No.1.

- 4) Mr. Shivprasad Shriram Tiwari, Age 73 years,
Occupation: Nil,
- 5) Mrs. Usha Shivprasad Tiwari,
Age 59 years, Occupation: Business,
All R/at :- Flat No. 104, Sector R-21,
Tower No. 30, Trendy Towers,
Amanora Park Town, Hadapsar,
Pune - 411028.) (Ori. Claimants)
- 6) Mr. Ramesh Ramrao Waghmare,
Age 59 years, Occupation: Retired,
R/at : - Malharsadan, Siddhi Vinayak
Colony, Ganganagar, S. No. 215,
Fursungi, Tal. Haveli, Dist. Pune. (Ori. Oppo. No.1))
..Respondents

Mr. D.D. Shinde a/w Mr. Yogesh G. Thorat, for the Applicants/ Respondents in FA.

Ms. Madhavi Tavnandi, for the Respondent/Appellant in FA - State.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 20 MARCH 2025

ORAL ORDER (Per Advait M. Sethna, J.) :-

1. This interim application is filed by the applicants/original claimants. The aforesaid First Appeal is filed by the Pune Mahanagar Parivahan Mahamandal Ltd.- appellant (*"the Corporation"* for short), assailing the judgment and award dated 25 January 2024 passed by the Motor Accident Claims Tribunal, Pune (*"MACT"* for short) in M.A.C.P. No.135 of 2019.
2. By the impugned award, the MACT directed the appellant - Corporation to jointly and severally pay compensation of Rs. 2,47,75,456/- to the applicants along with interest @ 7% p.a. till its realization.

3. By an order dated 3 April 2024 passed on Interim Application No.8421 of 2024, this Court directed that the Corporation to deposit an amount of Rs.1 Crore with the MACT Pune within a period of 8 weeks. Accordingly, such amount was deposited by the Corporation on 23 April 2024. Further thereto, by an order dated 20 March 2025 passed by this Court the Corporation was directed to deposit the balance of the award amount with the registry of MACT, Pune along with accrued interest, as directed on the entire amount of compensation as awarded i.e. Rs.2,47,75,456/- within a period of 8 weeks, subject to which the execution of the impugned award was directed to be stayed.

4. On the aforesaid backdrop, the present application is filed by the applicants/respondents that they be permitted to withdraw an amount of Rs.1 Crore, as deposited by the respondent/appellant with the M.A.C.T., Pune along with accrued interest thereon.

5. We have heard the learned counsel for the parties. With their assistance, we have perused the record.

6. Mr. D.D. Shinde, learned counsel for the applicants would place due reliance on the averments as made in the memo of the interim application in supporting the applicants plea for withdrawal of Rs.1 Crore along with accrued interest thereon. He would primarily submit that Dhiren the victim and the deceased husband of applicant no.1, in the motor accident which took place on 9 June 2018 in Pune, was the only earning member in the family of the applicants. The applicants after the demise of the deceased are hard pressed for finances and in dire need thereof. He would also urge that the applicants have

large expenditure to be incurred amounts to be spent on education of applicant nos.2 and 3 being the children of the deceased. So also applicant no.4 being the father of deceased, is bedridden and requires constant nursing care. Applicant no.5 is the old mother of the deceased who is also suffering from serious medical ailments, and on such medical treatment, huge expenses is being incurred by the applicants. He would further submit that applicant nos.4 and 5 have no source of independent income.

7. Ms.Madhavi Tavnandi, learned counsel for the respondent/ appellant would strongly oppose this application. In this regard, she would refer to the affidavit in reply filed by Shri Satish Dnyanoba Gavhane, Chief Transport Manager (Operation) of the appellant. She would primarily contend that as on date the applicants do not require any immediate financial assistance as claimed by the applicants. In this context, she would submit that the applicant no.1 and the deceased Dhiren had started a business in the name of LJ Financial Services wherein they assisted persons in need of loans, insurance, etc. She submits that the income-tax returns of the applicants in the appeal would reveal that the applicants/respondents have sufficient income from their business which is active. She would also submit that all relevant income-tax returns have not been furnished by the applicants/respondents to portray a true and correct picture of the financial position and income of the applicants. Ms. Tavnandi would further submit that the appellant has a strong case on merits to succeed in the appeal.

8. Having heard the learned counsel for the parties, we find that the applicants have made out a case justifying the imminent and urgent monetary

need. Hence, the applicants plea for withdrawal of the compensation amounts need to be partly granted. We reach to such conclusion as we find that the averments in paragraph 4 and 5 of the application of this IA discloses that the deceased Dhiren was the only bread earner of the family and all the family members i.e. the applicants were dependent on him. The applicant nos.2 and 3 being the minor children of the deceased Dhiren are still studying for which considering the cotemporary standard of fees even in a reasonable educational institution itself would be a substantial expenditure, that too for two children. The details in this regard are set out in this interim application. We also find that as set out in paragraph 6 of the IA the applicants, due to the sudden and untimely death of the deceased Dhiren applicants have no other source of income except what has been stated in the application. Thus, it has become extremely difficult for the family to maintain themselves after losing the sole bread earner at a young age of about 36 years.

9. We also find that as disclosed in paragraph 7 of the IA the applicant no.4 is the father of the deceased has serious medical issues including a surgery which is advised for his hip joint for which the estimated expenses are around Rs.3 to 4 lakhs. He is bedridden and requires nursing care. So also the applicant nos.5 is the old mother of the deceased who is suffering from several medical age related ailments and is in need of constant and continuous medical care. Applicant nos.4 and 5 have no independent source of income as clearly set out in the IA.

10. We find that the affidavit in reply dated 29 January 2025 of the respondent/appellant does not controvert the above aspects as set out in this IA.

The only thrust in such reply is on the income-tax returns of deceased as well as their business in the name of LJ Advisors Pvt. Ltd. which according to them is a running concern, which generates regular income. In this context, we have perused the income-tax returns as exhibited to the affidavit in reply. A perusal of such returns, for instance the one for the Assessment Year 2018-19 clearly shows income of Rs.3.10 lakhs, which by no stretch of imagination would be sufficient much less substantive to take care of even the very basic needs of the entire family which has lost the deceased at a tender age, being the sole bread earner of such family. We may observe that considering the averments made in this IA, we are not in agreement with the submission of Ms. Tavnandi to the effect that the applicants/respondents have sufficient income and/or they are not in need of immediate financial assistance to warrant dismissal of this interim application.

11. We find it pertinent to note that the decretal amount awarded by the MACT, Pune in its impugned judgment and award is Rs.2,47,75,456/-. The applicants/respondents are seeking to withdraw Rs.1 Crore which is hardly 40% of such decretal amount as deposited with the MACT, Pune. Thus, the interest of justice, prompts us and appeals to our conscience to permit withdrawal of the amount of Rs.1 Crore as prayed by the applicants/respondents. Further, as the operative part of our order below would indicate that withdrawal of such amount by the applicants/respondents is subject to the applicants furnishing an undertaking to bring back the amount in case the appellant succeed in the appeal. In such event the amounts shall be recovered as arrears of land revenue.

12. In light of the foregoing reasons, we are inclined to allow this interim

application in terms of the following order:-

ORDER

- (i) The Registrar, MACT, Pune is directed to permit the applicants/respondents to withdraw an amount 1,00,00,000/- (Rupees One Crore only) as deposited with the Registry of the MACT, Pune along with accrued interest within a period of two weeks from the date this order is placed before to the Registrar MACT, Pune along with the applicants withdrawal application.
- (ii) The above withdrawal is subject to an undertaking to be furnished by the applicants with the Registrar of MACT, Pune that in the event, the appellant – Corporation succeeds in the appeal the applicants shall bring back the amounts as deposited along with interest, and which shall be recovered as arrears of land revenue.
- (iii) All rights and contentions of the parties on the appeal are expressly kept open.
- (iv) Interim application is disposed of in the above terms.
- (v) Parties to act on the authenticated copy of this order.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]