

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 13178 OF 2024

IN

FIRST APPEAL NO. 690 OF 2023

Neeta Rakeshkumar Jain and Ors.

... Applicants

Versus

United India Insurance Co. Ltd.

... Respondent

.....

Mr. Yuvraj Narvankar, Advocate for the Applicants.

Smt. Varsha Chavan, Advocate for Respondent- Insurance Company.

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CORAM : SHIVKUMAR DIGE, J.

DATED : 19th NOVEMBER, 2024.

P.C. :

1. By this application, applicants are seeking withdrawal of amount.

2. It is contention of learned counsel for the applicants that deceased was the sole earning member of the applicants' family. The Applicants were dependent on the income of deceased. They have no source of income. There is no male member in the applicants family to earn the amount. Applicant No.2 marriage is fixed on 27.11.2024. The amount is required for marriage of applicant No.2. Learned counsel further submitted that applicant No.3 is taking education. The amount is required for paying the fees of applicant No.3. Hence requested to allow the application.

3. Learned counsel for respondent – Insurance company fairly submitted that earlier this Court has permitted applicants to withdraw 50% amount out of deposited amount. The total deposited amount was more than 2 Crores but the applicants permitted to withdraw Rs.43 lakhs so it is not 50% out of the total amount. The said amount is used for the family purpose as the applicants need the amount for marriage of applicant No.2 and for paying fees of applicant No.3. Hence requested to reject the application.

4. Learned counsel for the Insurance Company strongly objected to allow the application on the ground that in the month of September-2023 applicants were permitted to withdraw 50% amount out of the awarded amount. Applicants have withdraw Rs.50,52,652/- within span of one year. This application is filed for further withdrawal. Learned counsel further submitted that applicant No.2 is major who is going to marry but she has not filed application but it is filed on behalf of applicant No.1 who is the mother of the applicant No.2.

5. It is claimants case that driver of offending crane lost its control and dash to the deceased. Learned Counsel further submitted that there were around 100 people at the incident spot but only driver of offending crane dashed to the deceased which is suspicious and the respondent has challenged the involvement of crane in the said incident which is one of

the ground of the appeal. If applicants permitted to withdraw the further amount and if respondents succeeds in appeal it will difficult for the respondent to recover the amount hence requested to reject the application.

6. I have heard both the learned counsel. The deceased was the sole earning member of the applicants family. Marriage invitation card of the applicant No.2 is produced on record. Applicants need the amount. It appears that applicant No.1 mother of the applicant No.2 elderly member of applicants family. Applicants need the amount for marriage of applicant No.2 and for paying education fees of applicant No.3 who is below 18 years of age. If applicants are directed to file undertaking in case if applicants succeeds in the matter they shall return withdrawal amount. It would suffice and I pass following order.

ORDER

- (i) The application is allowed.
- (ii) The applicants are permitted to withdraw 10% amount out of deposited amount along with accrued interest thereon on out of deposited amount on furnishing usual undertaking.

7. Interim application is disposed of.

(SHIVKUMAR DIGE, J.)