

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL FOR
GREATER MUMBAI AT MUMBAI
MISCELLANEOUS APPLICATION NO. 158 OF 2026
IN
M.A.C.P. NO. 1806 OF 2015**

Shakrunisha Rafatulla Shaikh & Ors. ...Applicants

Versus

Janardhan A.P. Sagade ...Opposite Party

And

ICICI Lombard General Insurance Co. Ltd. ...Insurer

ORDER

1. By this order, I proceed to decide Miscellaneous Application No.158 of 2026 preferred by the original claimants seeking withdrawal of the amount deposited in pursuance of the judgment and award passed in M.A.C.P. No.1806 of 2015, together with accrued interest, in terms of the order passed by the Hon'ble High Court in the appeal proceedings arising out of the said award. The applicants have also sought appropriate directions regarding disbursement in favour of Applicant No.5 and Applicant No.6 despite minor variation in the recording of their names in the claim record and in their identity credentials.

2. The record shows that M.A.C.P. No.1806 of 2015 came to be partly allowed by judgment and award dated 10/06/2022, whereby the applicants were held entitled to

compensation of Rs.43,02,000/- inclusive of no-fault liability amount, if any, with future interest at the rate of 7% per annum from the date of application till realization. By the said award, the Tribunal also directed apportionment, namely 35% of the award amount to Applicant No.1, 7.5% each to Applicant Nos.5 and 6, and 50% equally to minor Applicant Nos.2, 3 and 4 to be invested till they attain majority; the Accounts Officer was directed to make payment after due verification and identification as per rules.

3. It further appears from the office report that the insurer deposited an amount of Rs.65,21,161/- by NEFT on 13/09/2023, and the same was invested in the name of the Accounts Officer, M.A.C.T., Mumbai with Bank of Maharashtra, Girgaon Branch on 25/09/2023. The office has also noted that the High Court order dated 23/06/2025 in First Appeal No.1301 of 2024, as available on the High Court website, corresponds with the order attached by the advocate, and that thereafter no further order was uploaded till the date of the report.

4. The applicants have produced on record the certified copy of the order passed by the Hon'ble High Court of Judicature at Bombay in Interim Application No.6502 of 2024 in First Appeal Stamp No.13086 of 2023, dated 30/07/2024. The said order records that, without going into the merits of the rival submissions, the major applicants were permitted to withdraw 65% of the amount to the extent of their share deposited before the Tribunal,

subject to filing undertaking to the satisfaction of the Presiding Officer of the Tribunal, whereas the share of the minor applicants and the balance amount were directed to remain deposited in a nationalised bank. The delay in filing the appeal was condoned, the first appeal was admitted, and stay was granted to the judgment and order of the Tribunal till final disposal of the appeal.

5. In support of the present application, Applicant No.1, the widow of the deceased, has filed her affidavit stating that the High Court permitted withdrawal of 65% amount with accrued interest and has further filed an undertaking to refund the amount with interest in the event the insurance company succeeds in appeal. Similar affidavits and undertakings have also been filed by Applicant No.5, the father of the deceased, and Applicant No.6, the mother of the deceased. These undertakings satisfy the express condition imposed by the Hon'ble High Court for release of the amount to the major claimants.

6. So far as identity is concerned, separate applications for payment have been moved in respect of Applicant No.5 and Applicant No.6. In the claim petition and award, Applicant No.5 is described as "Baitulla Hasan Raza Shaikh", whereas the Aadhaar and PAN copies produced with the miscellaneous application disclose the name as "Baitullah Hasan Raja Shaikh / Baitullah Shaikh", and the applicant has specifically affirmed that both denote one and the same person. Likewise, Applicant No.6 is described in the claim record as "Kamrun Baitulla Shaikh", whereas her

identity credentials show the name as “Kamrunnisha Baitullah Shaikh / Kamrun Nisha”, and the applicant has affirmed that both refer to one and the same person. The present record also contains the Aadhaar and PAN credentials of Applicant No.1, and Aadhaar/PAN materials of other applicants.

7. I have carefully considered the miscellaneous application, the affidavits, undertakings, office report, certified copy of the High Court order, the award, and the identity credentials placed on record.

Points for determination

8. The following points arise for my determination:

(i) Whether the applicants have made out a case for withdrawal of the amount in terms of the order of the Hon’ble High Court?

(ii) Whether Applicant No.5 and Applicant No.6 have satisfactorily established the identity discrepancy in their names for the purpose of disbursement?

(iii) What order?

Findings

9. My findings on the above points are as follows:

Point No.(i): **In the affirmative, partly, to the extent indicated below.**

Point No.(ii): **In the affirmative.**

Point No.(iii): **As per final order.**

Reasons

10. At the outset, it must be borne in mind that the

present miscellaneous application is not one for fresh adjudication of entitlement on merits. The entitlement of the claimants under the award already stands determined by the judgment dated 10/06/2022, and the present exercise is confined to implementation of the subsequent order passed by the Hon'ble High Court governing withdrawal during pendency of the appeal.

11. The certified copy of the High Court order dated 30/07/2024 is explicit. The Hon'ble High Court has permitted the **major applicants** to withdraw **65% of the amount to the extent of their share deposited before the Tribunal**, subject to filing of undertaking to the satisfaction of the Presiding Officer, and has simultaneously directed that the share of the minor applicants and the balance amount shall remain deposited in a nationalised bank. Thus, this Tribunal is duty-bound to act strictly within the four corners of that order. Neither enlargement nor curtailment of the High Court's directions is permissible at the Tribunal level.

12. The record reveals that among the claimants, Applicant No.1, Applicant No.5 and Applicant No.6 are major claimants in whose favour the original award had apportioned definite shares. Applicant Nos.2, 3 and 4 are minors, whose shares were ordered by the award itself to be invested till they attain majority. Applicant No.7 is shown in the cause title with endorsement "No Payment", and the award apportionment also does not allot any share to

Applicant No.7. Therefore, the present order can operate only in respect of the withdrawable shares of Applicant Nos.1, 5 and 6, and cannot extend either to the minors' component or to any person not allotted a payable share under the award.

13. The office report confirms the actual deposit of Rs.65,21,161/- by the insurer and its investment with the Bank of Maharashtra. Hence, there is no factual impediment in recalling the requisite portion for disbursement, subject of course to precise computation by the Accounts Officer in conformity with the award apportionment, the accrued interest, and the limitation imposed by the High Court order.

14. The affidavits and undertakings of Applicant Nos.1, 5 and 6 are on record. Each of them has acknowledged the pendency of the appeal and has undertaken to refund the amount with interest in the event the insurer succeeds. The condition precedent imposed by the Hon'ble High Court therefore stands satisfied. Once such undertakings are furnished and accepted, the Tribunal is required to facilitate withdrawal in terms of the appellate order, while maintaining adequate safeguards over the remaining amount.

15. The law relating to disbursement of motor accident compensation repeatedly emphasizes that while compensation is intended for the benefit of the victims and

dependents, the Tribunal must adopt a balanced approach so that the amount is neither unnecessarily withheld nor recklessly released contrary to protective conditions. In *General Manager, Kerala SRTC v. Susamma Thomas*, the Supreme Court laid down safeguards regarding disbursement and investment of compensation, particularly to protect vulnerable claimants from misuse. Later, in *A.V. Padma v. R. Venugopal*, the Supreme Court clarified that such safeguards are meant to protect claimants and should not be applied mechanically so as to deny reasonable access to compensation when the facts justify release. Likewise, in *Jai Prakash v. National Insurance Co. Ltd.*, the Supreme Court stressed structured and secure disbursement by Claims Tribunals.

16. Applying the aforesaid principles to the present case, I find that the major claimants are the widow and parents of the deceased. Their substantive entitlement under the award is already crystallized. The Hon'ble High Court, after considering the matter in appeal, has itself permitted withdrawal to the extent of 65% of their respective shares, subject only to undertakings. Therefore, withholding release despite fulfillment of those conditions would amount to defeating the tenor of the appellate order rather than preserving it. At the same time, the minors' shares and the balance amount must continue to remain invested, because that too is part of the High Court's mandate.

17. Coming to the discrepancy in the names of Applicant No.5 and Applicant No.6, it is well settled that procedural or clerical variation in spelling or expansion of names in personal records cannot, by itself, defeat substantive rights when identity is otherwise established on oath and through supporting documents. In the present matter, Applicant No.5 has filed a specific application and affidavit stating that “Baitulla Hasan Raza Shaikh” in the claim record and “Baitullah Hasan Raja Shaikh / Baitullah Shaikh” in Aadhaar and PAN refer to one and the same person. Similarly, Applicant No.6 has stated that “Kamrun Baitulla Shaikh” in the claim record and “Kamrunnisha Baitullah Shaikh / Kamrun Nisha” in her credentials refer to one and the same person. These averments are supported by photo-identity documents and there is nothing on record to suggest impersonation, competing claim, fraud, or prejudice to any party.

18. The original award itself directed payment after due verification and identification as per rules. Therefore, the appropriate course is not to reject the request on account of a nominal name discrepancy, but to direct the Accounts Officer to verify the applicants through the affidavits, Aadhaar/PAN documents, photographs, signatures/thumb impressions, and such further identification as may be required under the prevailing practice of the Tribunal, and thereafter to release the admissible amount to the same individual. Such a course advances justice and prevents

technicality from overriding the beneficial object of compensation law.

19. The continuation sheet of the High Court record dated 23/06/2025 also shows that the appeal remains pending, and therefore this Tribunal must make it clear that the present release is wholly subject to the final outcome of the appeal. The undertakings furnished by the applicants shall remain binding. The amount now directed to be released shall accordingly be without prejudice to the rights and contentions of the parties in the pending first appeal.

20. In view of the foregoing discussion, the miscellaneous application deserves to be allowed partly in terms of the High Court's order, with appropriate safeguards.

ORDER

1. Miscellaneous Application No.158 of 2026 is partly allowed.

2. It is hereby declared that the applicants are entitled to act upon the order dated **30/07/2024** passed by the Hon'ble High Court of Judicature at Bombay in **Interim Application No.6502 of 2024 in First Appeal Stamp No.13086 of 2023** arising out of the award in **M.A.C.P. No.1806 of 2015**, whereby the major applicants were permitted to withdraw **65% of the amount to the extent of their respective shares deposited before the Tribunal,**

subject to filing of undertakings.

3. The undertakings filed by **Applicant No.1 Shakrunisha Rafatulla Shaikh, Applicant No.5 Baitulla/Baitullah Hasan Raza/Raja Shaikh, and Applicant No.6 Kamrun/Kamrunnisha Baitulla(h) Shaikh** are accepted and shall form part of the record. They shall remain binding during pendency of the appeal and till final disposal thereof.

4. The **Accounts Officer, M.A.C.T., Mumbai** is directed to recall the requisite amount from the invested deposit, and to disburse to **Applicant No.1, Applicant No.5 and Applicant No.6** only **65% of the amount to the extent of their respective shares**, together with proportionate accrued interest thereon, strictly in accordance with:

(i) the apportionment contained in the award dated 10/06/2022, and

(ii) the High Court order dated 30/07/2024.

5. The **share of minor Applicant Nos.2, 3 and 4**, and the **remaining balance amount** after such release, shall continue to remain invested in a nationalised bank, in conformity with the award and the directions of the Hon'ble High Court.

6. For the purpose of disbursement, it is held that:
(a) **"Baitulla Hasan Raza Shaikh"** shown in the claim record and **"Baitullah Hasan Raja Shaikh / Baitullah Shaikh"**

shown in the identity credentials refer to one and the same person, namely **Applicant No.5**; and (b) **“Kamrun Baitulla Shaikh”** shown in the claim record and **“Kamrunnisha Baitullah Shaikh / Kamrun Nisha”** shown in the identity credentials refer to one and the same person, namely **Applicant No.6**, subject to final verification by the Accounts Officer on the basis of Aadhaar/PAN and other identification formalities as per rules and office procedure.

7. Before actual disbursement, the Accounts Officer shall verify the identity of the concerned applicants through original identity credentials, photographs, signatures/thumb impressions, bank particulars, and such other record as is ordinarily required under the rules and practice of this Tribunal.

8. The release of the amount under this order shall be **subject to the final outcome of the pending First Appeal**, and shall be **without prejudice to the rights and contentions of the parties** therein.

9. In case the appeal succeeds and any restitution becomes necessary, the applicants receiving payment shall remain bound by their undertakings to refund the amount with such interest as may be directed.

10. Miscellaneous Application stands disposed of

accordingly.

Pronounced in open Court.

Date: 9/4/2026

Place: Mumbai (Shashikant Eknathrao Bangar),
Member, CR3,
Motor Accident Claims Tribunal, Mumbai