

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

**CIVIL APPLICATION NO.2736 OF 2019
WITH
CIVIL APPLICATION NO.3586 OF 2018
IN
FIRST APPEAL NO.1079 OF 2018
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Salim Amerjan Sayed and Anr.Applicants

In the matter of

Reliance General Insurance Co. Ltd.
and Anr. ...Appellants

V/s.

Salim Amerjan Sayed and Anr.Respondents

...

Mr. Rahul Mehta I/b. M/s. KMC legal Venture for the Appellants in FA/1079/2018, for the Applicants in CAF/3586/2018 and for the Respondent in CAF/2736/2019.

Mr. Tejpal S. Ingale for the Respondent Nos.1 and 2 in FA/1079/2018 and for the Applicants in CAF/2736/2019.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 06th AUGUST, 2019.

P.C.:-

ORDER IN CIVIL APPLICATION NO.2736 OF 2019:-

. The Applicants, who are the original claimants, have sought withdrawal of the compensation awarded by the Claims Tribunal, Thane, vide judgment dated 29th March, 2018 in M.A.C.P. No.668 of

2015. By the impugned judgment and award, the Claims Tribunal has awarded compensation of Rs.27,20,100/- with interest @ 8% from the date of the petition till realization of the entire amount.

2. The Applicants are parents of the deceased-Sarfaraj Salim Sayed, who succumbed to the injuries sustained in a motor vehicular accident on 10th December, 2015. The Applicants have stated that the deceased was the only earning member of the family and that they are suffering from various ailments and have no other source of income.

3. Considering the reasons stated in the application as well as the grounds raised in the appeal memo, it would be just and proper to allow each of the Applicants to withdraw 25% of compensation with proportionate interest accrued thereon. Suffice it to say that the withdrawal of the compensation is subject to final outcome of the appeal. The Applicants /original claimants shall given an undertaking that they shall refund the compensation alongwith interest in the event it is held that the Respondent-Insurance Company is not liable to indemnify the insured.

4. The Civil Application stands disposed of.

ORDER IN THE FIRST APPEAL NO.1079 OF 2018

5. The learned counsel for the Appellants seeks leave to file notes of evidence. Leave is granted. To be filed in the registry before the next date with copy to the other side. In view of the order dated 3rd December, 2018, the Appeal alongwith the Civil Application No.3586 of 2018 be listed for final hearing on **19/8/2019 (End of the board).**

(SMT. ANUJA PRABHUDESSAI, J.)