

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 4249 OF 2008  
IN  
FIRST APPEAL NO. 194 OF 2007**

Kawita W/o Rajendra Sonwane .. Applicant

Versus

1. Mukthar Khan Khudyar Khan Pathan  
and others .. Respondents

Shri C. R. Deshpande, Advocate for the Applicant.

Shri M. K. Goyanka, Advocate for the Respondent No. 1.

Shri M. M. Bhokarikar, Advocate for Respondent Nos. 3 and 4.

**CORAM : S. V. GANGAPURWALA, J.**

**DATE : 03RD SEPTEMBER, 2010.**

**PER COURT :**

. This is an application for withdrawal of an amount of Rs. 48,038.75. The present applicant along with present non applicant Nos. 3 and 4 had filed a claim petition before the Motor Accident Claim Tribunal Amalner. The Tribunal vide award dated 05th December, 2006, passed an award directing the present non applicant Nos. 1 and 2 to pay an amount of Rs.

1,72,000/- to the present applicant and non applicant Nos. 3 and 4 with interest at the rate of 6%. The Tribunal further directed that the said amount be divided amongst the present applicant and non applicant Nos. 3 and 4 in equal shares. The present applicant has filed substantive appeal for enhancement of compensation. The non applicant No. 1 has deposited the amount as directed by the Tribunal. The present application is filed for withdrawal of Rs. 48,038.75 i. e. the share awarded to the present applicant by the Tribunal.

2. Shri Bhokarika, learned counsel for respondent Nos. 3 and 4 contends that there are subsequent developments. The present applicant is remarried and as such, would not be entitled for the said amount and in fact, the present non applicant Nos. 3 and 4 have moved for withdrawal of entire amount to this Court. Said application is not before the Court, however, the rights which are vested at the time of award that is passed cannot be divested. The non applicant Nos. 3 and 4 have not preferred any cross objection nor any appeal against the award that has been passed. In view of the fact that said award passed by the Tribunal is in force. The present applicant would be entitled for 1/3rd share. The calculations are not disputed. In the light of the same, the

present applicant is entitled to withdraw the amount of her 1/3rd share.

3. The civil application is accordingly allowed in terms of prayer clause "B".

**[S. V. GANGAPURWALA, J.]**

bsb/Sept.10