

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

CIVIL APPLICATION NO. 6609 OF 2015
IN FA/1283/2013 WITH CA/6090/2013 IN FA/1283/2013

BIHARILAL PURANMAL VISHWAKRMA AND OTHERS
VERSUS
NATIONAL INSURANCE COMPANY LTD. AND OTHERS

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Mr S. G. Chapalgaonkar, Advocate for the applicants
Mr V. N. Upadhye, Advocate for respondent No. 1

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CORAM : **S. V. GANGAPURWALA, J.**
DATE : **11TH SEPTEMBER, 2015.**

PER COURT:

. This is an application for withdrawal of the amount.

2. Mr V. N. Upadhye, learned Counsel for the respondent No.1 opposes the application on the ground that the deceased was travelling as a passenger in the goods vehicle. The Tribunal has not properly appreciated evidence in this regard. He further submits that, it is the act only policy and the Insurance Company is not at all liable.

3. Mr Chapalgaonkar, learned Counsel for the claimants submits that, the deceased was a labour employed on the said tractor, the evidence in this regard has been discussed. The extra premium was also taken by the Insurance Company.

4. Today, the award is in favour of the claimants. At the same time, the interest of the Insurance Company also has to be safeguarded. Considering the same, I pass the following order.

ORDER

- (i) The claimants are allowed to withdraw 50% of the amount deposited on submitting an undertaking to this Court that in the event this Court directs the applicants to deposit the amount, they will redeposit the amount within a period of one month from the date of such order.
- (ii) The claimants are also allowed to withdraw remaining 50% of the amount on submitting solvent security / surety of the like amount.

Civil Application is accordingly disposed of.

Civil Application No. 6090 of 2013 (For Stay)

As the entire amount under the award is deposited, Civil Application stands disposed of.

[S. V. GANGAPURWALA, J.]