

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

**CIVIL APPLICATION NO. 8438 OF 2014
IN
FIRST APPEAL NO. 1366 OF 2012**

Hajratbee Abdul Razak and others .. Applicants

Versus

M/s ICICI Lombard Insurance Co.
Ltd. through legal manager and another .. Respondents

Shri H. I. Pathan, Advocate for Applicants.
Shri V. N. Upadhye, Advocate for the Respondent No. 1.
Shri Vikas A. Sawant, Advocate h/f Shri A. M. Gaikwad,
Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA, J.
DATE : 28TH AUGUST, 2015.**

PER COURT :

. Mr. Upadhye, the learned counsel for the Insurance Company states that, the tribunal could not have passed the order of pay and recover as against the present applicant. It is a case of breach of policy. The license held by the driver had lapsed on the date of accident. The said license was not in force. It is renewed one month, after the accident. As such Insurance Company is not liable.

2. Considering the award passed, so also safeguarding the

interest of the Insurance Company, I pass the following order.

3. The applicant Nos. 1 and 2 are allowed to withdraw the amount to the extent of 10% each of the amount deposited and applicant Nos. 5 and 6 are allow to withdraw 5% of the amount deposited on submitting an undertaking to the Court that in event the applicants are directed to deposit the amount, then they shall deposit the same within one (1) month. The applicant Nos. 1 and 2 are further allow to withdraw 10% each of the amount deposited on submitting security/surety of the like amount. So also the applicant Nos. 5 and 6 are further allowed to withdraw 5% of the amount deposited on furnishing solvent security/surety of the like amount. The civil application is disposed of.

[S. V. GANGAPURWALA, J.]

bsb/Aug. 15