

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

**CIVIL APPLICATION NO. 12275 OF 2015  
IN  
FIRST APPEAL NO. 1390 OF 2015**

Rohidas Baburao Rathod & Anr. .. Applicants

Versus

M/s. National Insurance Cl. Ltd. & Ors. .. Respondents

Mr. A.G. Choudhari, Advocate for the applicants.

Mr. V.N. Upadhye, Advocate for respondent No.1.

**CORAM : A.M. BADAR, J.**

**DATED : 20.11.2015**

**P.C. :-**

1. This is an application by original claimants for withdrawal of amount of compensation deposited by the insurance company.

2. Perused the judgment and award dated 21.01.2015. Compensation of Rs.2 lakhs was awarded on account of death of child of three years to his parents. Impugned judgment and award shows that driver of the offending vehicle was permitted to drive transport vehicle. Non-applicant/insurance company has produced licence on record but according to learned Counsel for applicants/claimants, no evidence was adduced by the insurance

company for proving breach of terms and conditions of the policy.

3. None for non-applicants. Learned Counsel for applicants states that he has served copy of the application to the learned Counsel appearing for non-applicant No.1/appellant-insurance company.

4. Considering the fact that the learned Member of the Tribunal has held insurance company liable to pay compensation, applicants/claimants are permitted to withdraw 50% amount of compensation under award on furnishing an undertaking that in the event of allowing the appeal, they shall refund the compensation within one month from the date of order.

5. Civil Application accordingly stands disposed of.

**[A.M. BADAR, J.]**