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C. A. No. 14066 of 2015,
C. A. No. 14068 of 2015 &
C. A. No. 14079 of 2015

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

CIVIL APPLICATION NO. 14066 OF 2015
IN FAST/19380/2015

BHASKAR SAHEBRAO DEVDE
VERSUS
ICICI LOMBARD GENERAL INSURANCE CO. LTD. THR ITS LEGAL
MANAGER AND OTHERS

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Advocate for Applicant : Mr. R.B. Dhakane

Advocate for Non-applicant no.1 : Mr. A.G. Choudhari

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CIVIL APPLICATION NO. 14068 OF 2015
IN FAST/19374/2015

SUNITA BAPURAO DEVDE
VERSUS
ICICI LOMBARD GENERAL INSURANCE CO. LTD. THR ITS LEGAL
MANAGER AND OTHER

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Advocate for Applicant : Mr. R.B. Dhakane

Advocate for Non-applicant no.1 : Mr. A.G. Choudhari

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CIVIL APPLICATION NO. 14079 OF 2015
IN FAST/19360/2015

DURGAJI SAKHARAM RASAL AND OTHERS
VERSUS
ICICI LOMBARD GENERAL INSURANCE CO. LTD. THR ITS LEGAL
MANAGER AND OTHERS

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(2)

C. A. No. 14066 of 2015,
C. A. No. 14068 of 2015 &
C. A. No. 14079 of 2015

Advocate for Applicant : Mr. R.B. Dhakane

Advocate for Non-applicant no.1 : Mr. A.G. Choudhari

CORAM : A.M. BADAR, J.

DATE : 2ND DECEMBER 2015

PER COURT :

1. These applications are filed by dependent - legal representatives as well as injured in the accident caused by the tractor. Applicants are seeking permission to withdraw the amount of compensation under the award.
2. Heard the learned Counsel appearing for applicants as well as the learned Counsel appearing for non-applicant - Insurance Company. Perused the impugned award.
3. It is seen that the injured as well as deceased persons were travelling in a tractor as labourer after loading sugarcane in the trolley. According to applicants, as such the Insurance Company cannot raise a defence that risk of the victims was not covered under the contract of insurance.
4. Perusal of the impugned award shows that policy of insurance was a comprehensive policy i.e. package policy. The learned Tribunal as

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C. A. No. 14079 of 2015

such held that the non-applicant - Insurance Company is liable to pay compensation along with owner and driver of the vehicle.

5. Considering the nature of challenge and the aspect as to whether labourers can be heard to say that they were travelling in tractor, applicants cannot be permitted to withdraw full amount under the award. Another aspect is, the trolley which was attached to the tractor was not at all insured. As such in the facts and circumstances of the present case, applicants can be permitted to withdraw only half of the amount under the award.

6. Hence, I pass the following order :-

(a) Applicants are permitted to withdraw half of the amount under the award on furnishing their undertaking that in the event, the appeal is allowed, they shall refund the same within a period of one month.

(b) The mode and manner of disbursement of the amount, as aforesaid, shall be as per directions of the Tribunal.

7. Civil Applications are disposed of in the aforesaid terms.

(A.M. BADAR)
JUDGE

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