

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

Civil Application No.586 of 2016

In

First Appeal No. 450 of 2013

Mathura Ganesh Phulzalke
And Another.

.. Applicants.

Versus

New India Insurance Co. Ltd.
Aurangabad & Another.

.. Respondents.

Shri. K.D. Bade Patil Advocate, for applicants.

Shri. S.G. Chapalgaonkar, Advocate, for respondent No.1.

CORAM: T.V. NALAWADE, J.

DATE : 29th JANUARY 2016

ORDER:

1) The application is filed for permission to withdraw the amount of compensation of Rs.3,50,000/- with interest. The learned counsel for the Insurance Company has strong objection. The Insurance Company wants to prove that the death did not take place out of the use of the vehicle though the deceased was the employee of the owner and there was breach of conditions of the policy. This Court has seen the judgment and reasoning given by the Claims Tribunal. In view of the contentions

made in the application and the submissions made this Court holds that applicants can be allowed to withdraw the amount subject to giving undertaking.

2) In the result, the civil application is allowed. Permission is granted to withdraw the amount. Disbursement is to be made as per the award subject to giving undertaking by the applicants that they will deposit the amount with the same rate of interest in case the Insurance Company succeeds.

Sd/-
(T.V. NALAWADE, J.)

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