

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

947 CIVIL APPLICATION NO. 3070 OF 2016 IN FA/1631/2015

LAXMIBAI RAMA LADKE AND OTHERS
VERSUS
THE NEW INDIA ASSURANCE COMPANY LTD.AND ANR

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Advocate for Applicants : Mr Ghatol Patil Shahaji B.
Advocate for Respondents : Mr A B Kadethankar For R/1, Mr S D
Tare For R/2

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CORAM : V.K. JADHAV, J.
Dated: March 10, 2016

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PER COURT :-

1. Heard both sides.
2. Learned counsel for the applicants submits that the applicants are the legal heirs of deceased Rama Ladke, who met with an accidental death in the year 2013. He was the bread earner of the family and all the applicants were dependent on his earnings. Learned counsel submits that, the applicants therefore, may be permitted to withdraw the entire amount.
3. Learned counsel for respondent no.1 submits that there is breach of the condition of the policy and statutory defence has been raised by the respondent no.1. Learned counsel submits that, in the alternate, applicants may be permitted to withdraw the amount on certain conditions.

4. It appears that, learned member of the motor accident claims tribunal considered the statutory defence raised by the insurer in detail. Driving licence was produced on record and the Tribunal has observed that as per the said driving licence, driver of the vehicle involved in the accident can drive LMV tractor with effect from 20.9.2012 i.e. prior to the accident.

5. In view of this, I am inclined to allow this application with certain conditions :-

ORDER

- I. Application is hereby allowed.
- II. The applicants are permitted to withdraw the amount as per the apportionment given by the learned Member of the Motor Accident Claims Tribunal, Basmath in the impugned order dated 15.1.2015 with a condition that the applicants shall submit an undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- III. Civil application stands disposed of.

(V.K. JADHAV, J.)

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aaa/-