IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 CIVIL APPLICATION NO. 3147 OF 2016
IN FAST/19377/2015

SHOBHA DADASAHEB FATE AND OTHERS
VERSUS
SUKHDEO BHAURAO TEKALE AND ORS
...
Advocate for Applicants : Mr. Jayabhar Dattatraya R.
Advocate for Respondent No.3 : Mr. A G Choudhari

CORAM : V. K. JADHAV, J.

DATE : 11th March, 2016

PER COURT :

1. Perused the orders dated 20.11.2015, 02.12.2015 and also the order dated 29.02.2016 passed by this Court. By order dated 29.02.2016, this Court has observed that it is desirable that matter be placed before the same Honourable Judge. The learned counsel submits that now the same Honourable Judge is not available at this Bench.

2. It appears that the appellant/Insurer has raised defence about breach of conditions of policy before the Tribunal and after considering the same, the tribunal has recoded finding in negative and awarded compensation, directing owner, driver and the present appellant Insurer of the vehicle to pay the same to the claimants jointly and severally.

3. Learned counsel for the appellant/Insurer submits that the appellant has strong hope of success in the appeal. The learned counsel further submits that the tribunal has not given any reason while recording finding in the negative so far as the defence raised by the Insurer is concerned.

4. Considering the fact that the applicant No.1 is widow and having two minor children and applicant Nos. 4 and 5 are old age parents, I am inclined to permit them to withdraw certain amounts since bread earner of the family met with an accidental death.

5. In the light of the order passed by this court dated 2nd December, 2015 in CA No.14066/2015 and other connected matters, applicant Nos. 1, 4 and 5 are hereby allowed to withdraw half of the amount of their shares on furnishing undertaking to the satisfaction of the Registration (Judicial) of this Court.

6. Civil applicator is accordingly disposed of.

(V. K. JADHAV, J.)

JPC