

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

43 CIVIL APPLICATION NO. 16541 OF 2015
IN FA/2261/2015 WITH CA/11061/2015 IN FA/2261/2015

SHAKILABEE SHAKIL KHAN AND ORS
VERSUS
UNITED INDIA INSURANCE CO LTD THR ITS BRANCH
MANAGER,SHRIRAMPUR

...
Advocate for Applicants : Sayyed Tauseef Yaseen
Advocate for Respondent No. 1 : V R Mundada
...

CORAM : T.V. NALAWADE, J.
DATED : 19th January, 2016.

ORDER :

1. Civil Application No. 16541/2015 is filed for permission to withdraw the compensation amount by the original claimants. Heard both the sides.

2. The learned counsel for Insurance Company opposed the application by contending that initially the auto-rickshaw was insured as a private vehicle, but subsequently it was registered as commercial vehicle and so, there was no coverage to the persons travelling in the vehicle.

3. This Court has carefully gone through the judgment and award. There is no such mention of defence which is now stated in the present proceeding. The reasoning part also does

not show that any evidence in that regard was given by the Insurance Company. The liability of the owners of two vehicles is apportioned by the Tribunal. It appears that the amount of more than Rs. 13 lakh has been deposited. In view of the facts and circumstances of this case, this Court holds that permission needs to be granted to withdraw the entire amount of compensation, subject to giving of undertaking that in case, the Insurance Company will succeed in the appeal, the amount will be deposited by the original claimants with interest at the same rate. In those terms the application for withdrawal is disposed of.

4. Call record and proceeding. Stand over to 30.3.2016.

[T.V. NALAWADE, J.]

ssc/