

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

CIVIL APPLICATION NO. 12464 OF 2016 IN FA/3655/2016

SUREKHA SUKLAL BARI AND OTHERS
VERSUS
THE NEW INDIA ASSURANCE LTD. AND OTHERS

...
Advocate for Applicants : Mr. M. M. Bhokarikar.
Advocate for Respondent No.1 : Mr.V.R.Mundada.
...

CORAM : K.K. SONAWANE, J.

DATED : 7TH NOVEMBER, 2017.

Order :-

Heard learned counsel for applicants-original claimants and learned counsel for respondent No.1 - Insurance Company. The present application is moved seeking permission to withdraw the amount of compensation deposited in this Court. The respondent No.1- Insurance Company has deposited in all Rs.14,51,828/- (Rs. Fourteen Lac Fifty One Thousand Eight Hundred Twenty Eight Only) in this Court towards compensation amount as awarded by the learned Motor Accident Claims Tribunal Tribunal in Motor Accident Claim Petition No. 97 of 2017 dated 02-05-2013.

2. The learned counsel for respondent No.1- The New India Assurance Company Limited raised objection for withdrawal of the amount on behalf of applicants for the reasons that the learned Tribunal did not consider the circumstances of future prospects in it's proper perspective. Moreover, the compensation amount deposited was also withdrawn by the applicants-original claimants. These circumstances was not considered by the learned Tribunal while impugned Award passed in the present proceedings. He insisted for final hearing of the appeal on merit in stead of allowing applicants-original claimants for withdrawal of the amount.

3. Admittedly, the present application seeking withdrawal of amount is filed in the year 2016, and since then, applicants-original

claimants are pursuing the present application. In such circumstances, it would justifiable to allow applicants- original claimants to withdraw some sort of compensation amount deposited in this Court. During the course of hearing, it has been agreed on behalf of the both side for allowing to applicants-original claimants to withdraw total sum of Rs.5,00,000/- (Rs. Five Lac Only) deposited in this Court pending the appeal. In such circumstances, I do not find any impediment to allow the application partly. Hence, application stands allowed partly. The claimants are permitted to total sum of Rs.5,00,000/- (Rs. Five Lac Only) from the amount deposited in this appeal on behalf of appellant-Assurance Company subject to condition that the applicant shall furnish undertaking to the satisfaction of the learned Registrar (Judicial) to the effect that in case adverse situation arises, if any, after success of appellant in the appeal, the amount received by the applicants-original claimants be refunded forth-with as per order of this Court. The rest of the balance amount be invested in Fixed Deposit Receipts of any nationalized bank till further order of this Court.

4. Registry to do the needful for disbursement of the amount as mentioned above in favour of applicants. Accordingly, application stands disposed of. List the matter for final hearing on the next date.

[K. K. SONAWANE]
JUDGE

rrd.