

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

945 CIVIL APPLICATION NO. 7916 OF 2017
IN FA/567/2017 WITH CA/4799/2016 IN FA/567/2017

JIJABAI WAMAN CHANDRASHEKHAR AND ANR
VERSUS
ORIENTAL INSURANCE CO. LTD THR ITS DEPUTY MANAGER,
PARBHANI AND ANR

...
Advocate for Applicants : Mr. Agrawal Pavankumar S.
Advocate for Respondent-insurer : Mr. A.G. Kanade
.....

CORAM : V. K. JADHAV, J.
DATED : 30th JUNE, 2017

PER COURT:-

1. Learned counsel for the applicants submits that the bread winner of the family met with an accidental death and the applicants may be permitted to withdraw the amount of compensation deposited before this Court.
2. Learned counsel for the respondent insurer submits that the Tribunal has fastened the liability on the owner of the vehicle of mini door auto Rickshaw involved in the accident and the applicants-original claimants have not impleaded the owner of the truck and insurer as party to the claim petition.
3. On perusal of the judgment and award passed by the Tribunal, it appears that in para 13 of the judgment the Tribunal has recorded a finding that it is case of composite negligence and as such driver of both the vehicles are responsible for the accident. In view of aforesaid finding, the applicants, who have claimed the compensation from one of the joint tort feasons, are entitled to

withdraw the amount of compensation. Considering the challenge made to the judgment and award passed by the Tribunal, the applicants are permitted to withdraw the amount to the extent of 50% of the amount deposited in this Court, alongwith accrued interest, on furnishing undertaking to the satisfaction of Registrar (Judicial) of this Court. Civil application is disposed of.

(V. K. JADHAV, J.)

rlj/