

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

921 CIVIL APPLICATION NO. 10665 OF 2017
IN FA/1843/2016

SUREKHABAI PRAKASHCHAND JAIN (SANDECHA) AND ORS
VERSUS
BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD. THR ITS BRANCH MANAGER,
AURANGABAD AND O

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Advocate for Applicants : Mr. Madhav M. Bhokarikar
Adv. for respondent No.1 : Mr. M.R. Deshmukh, Adv. h/f. Mr. S.G.
Chapalgaonkar.

CORAM : K.K. SONAWANE, J.

DATE : 11th October, 2017.

PER COURT:

1] Heard learned counsel for the applicant and learned counsel for the respondent Insurance company as well as learned counsel for the respondent No.2 owner of the offending vehicle. Despite service of notice none appears for the respondent No.3.

2] It has been submitted that the insurance company has deposited an amount of Rs. 3,86,396/- being part of compensation amount as awarded by; the Tribunal. In view of nature of subject matter and the grounds mentioned in the appeal, there is no impediment to allow the applicant to withdraw 50% of the amount deposited by the insurance company in this court. Hence, the application to that effect deserves to be allowed.

3] Accordingly, the application stand allowed. The applicants are entitled to receive 50% of the amount deposited by the respondent No.1 insurance company being part of compensation amount awarded by the learned Tribunal. Out of the 50% amount deposited by insurance company in this appeal which accrued to Rs.1,93,198/- say, 1,93,200/-, an amount of

Rs. 30,000/- be paid to applicant No.5 Shri Fulchand Jugraj Jain (Sandecha) on condition that he would furnish an undertaking to the effect that he would refund the amount, if any adverse situation arises on adjudication of the appeal on merit in favour of appellant insurance company, as per the direction of this court. Rest of the amount i.e. Rs. 1,63,200/- be paid to applicant No.1 Surekhabai Prakashchand Jain (Sandecha) including the share of applicant Nos. 3 and 4, being their mother and natural guardian, on condition that the amount so withdrawn on behalf of minor children applicant Nos. 3 and 4, shall be utilized for their welfare only. Rest of the amount deposited on behalf of the insurance company be invested in any nationalized bank for a period of two years or till adjudication on merit. Registry to do the needful for disbursement of the amount in favour of the applicants, as indicated above. Application for withdrawal of amount stands disposed of accordingly.

[K.K. SONAWANE]
JUDGE.

grt/-