

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

908 CIVIL APPLICATION NO. 10780 OF 2017
IN FAST/38851/2016
WITH CA/2631/2017 IN FAST/38851/2016

ANUSAYABAI MADHAVRAO BHANDARE
VERSUS
ICICI LOMBARD GENERAL INSURANCE COMPANY LTD. THR.
ITS BRANCH MANAGER AND ORS

Advocate for Applicant : Mr. R. S. Shinde.
Advocate for Respondent No.1 : Mr. R. H. Dahat, Mr. S. S. Patil.

CORAM : K.K. SONAWANE, J.

DATED : 31st AUGUST, 2017.

Order :-

Heard the learned counsel for the applicant and learned counsel for respondent No.1 Insurance Company. Perused the application.

2. According to learned counsel for respondent No.1 insurance Company, the vehicle shown involved in this matter is not responsible for alleged death of victim Vijaykumar Madhav Bhandare, who was traveling in Truck bearing No MH-11-A-5267. The learned Tribunal committed error while imposing monetary liability on the respondent No.1 Insurance Company instead of owner and Insurance Company of another vehicle Truck bearing No. MH-12-FC-7091. He has raised objection not to allow the applicant to withdraw the amount deposited in this Court. He has every hope of success in the appeal.

3. I have given anxious consideration to the submissions advanced on behalf of both sides as well as perused the documents and findings expressed by the learned Tribunal. Admittedly, the applicant is mother of the deceased Vijaykumar, who was her lone son. Considering the nature of subject matter, I do not find any impediment to allow the applicant to withdraw 50 % amount from the amount deposited by respondent No.1 Insurance Company in this appeal. Therefore, the applicant is hereby allowed to withdraw 50% of the amount deposited in this Court subject to condition that the applicant shall furnish undertaking to the satisfaction of Registrar (Judicial) of this Court to the effect that in case any adverse situation arises in future, she will refund the amount as per order of this Court within stipulated period. Rest of the amount be deposited in Fixed Deposit Receipt in any nationalized Bank for a period of two years or till disposal of the appeal on merits, whichever is earlier.

4. The Civil Application is allowed in aforesaid terms and disposed of.

[K. K. SONAWANE]
JUDGE

MTK.