

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

910 CIVIL APPLICATION NO. 11512 OF 2017
IN FIRST APPEAL ST. NO.7695/2017

LAXMIBAI TULJASINGH THAKUR AND ORS
VERSUS
THE ORIENTAL INSURANCE CO. LTD. THR ITS DIV.
MANAGER, AURANGABAD AND ANR

...

Advocate for Applicants : Mr. Mayure Pramod C
Advocate for Respondents 1 and 2 : Mr. Dhananjay P.
Deshpande

CORAM : K. L. WADANE, J.

DATE : 14th December, 2017

ORDER:

1. Heard learned counsel for the applicants and learned counsel for the respondents.
2. This is an application for withdrawal of the amount of compensation deposited by the respondent Insurance company in this Court.
3. Learned counsel appearing for the respondents has objection to pay the entire amount to the applicants on the ground that the policy issued to respondent No.2 was already cancelled and it was intimated to respondent No.2 and therefore, the respondent Insurance company is not responsible to pay compensation. As against this, the learned counsel for the applicant submits that as per the observations of

the Apex Court in the case of **United Insurance Co. Ltd. Vs. Laxmamma and others**, reported in AIR 2012 SC 2817, when the cancellation of policy was not intimated to the insurer before the accident, then the insurer is firstly liable to pay the compensation. Presently, the award is in favour of the applicants.

4. In view of the above, for the reasons stated in the application, I am of the opinion that at least 50% of the amount of compensation under award alongwith with interest accrued thereon is to be paid to the applicants. Hence following order:

O R D E R

Applicants are permitted to withdraw 50% of the amount of compensation deposited in this court with interest accrued thereon on furnishing undertaking that in the event of adverse order passed in the appeal, they shall deposit the said amount within a period of 12 weeks.

5. The civil application is disposed of

(K. L. WADANE, J.)

JPC