

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

CIVIL APPLICATION NO. 10653 OF 2017 IN FA/2707/2016

ASHWINI AJINATH VIGHNE AND OTHERS
VERSUS
RELIANCE GENERAL INSURANCE CO. LTD.

...

Advocate for Applicants : Mr. R. B. Dhakane.
Advocate for Respondent No. 2 : Mr. S. G. Chapalgaonkar.

...

CORAM : K.K. SONAWANE, J.

DATED : 15TH NOVEMBER, 2017.

Order :-

Heard learned counsel for applicants (original claimants and learned counsel for respondent No.2- Insurance Company. When the matter is called out, none appears for respondent No.1.

2. Learned counsel for applicants submits that respondent-Insurance Company has deposited the total sum of Rs.13,02,496/- in this Court towards compensation amount awarded by learned Tribunal. He seeks permission to withdraw of the same.

3. Learned counsel for respondent No.2 - Insurance Company vociferously contends that the very involvement of the offending vehicle was put in controversy before the learned Tribunal as well as the same issue has been raised in present appeal. He further submits that, owner and driver also came forwarded with specific pleadings that their vehicle has no involvement in impugned accident. In case the amount is disbursed in favour of applicants (original claimants), it would create impediments and difficulty to recover the same in future. Therefore, he prayed not to nod in favour of applicant.

4. He further contends that as per Award amount of Rs.10,51,000/- is kept in Fixed Deposit Receipts Account and balance amount remained available for further process if any. In view of the nature of objection raised in the appeal, I find force in the

contention put-forth on behalf of learned counsel for appellant-Insurance Company. However, considering the very object and purpose of the Act, it would justifiable to allow the applicant No.1 Smt. Aswini w/o. Ajinath Vighne to withdraw the amount of Rs.3,00,000/- from the amount deposited in this appeal on behalf of appellant-Assurance Company. In such circumstances, I do not find any impediment to allow the application partly.

5. Hence, application stands allowed partly. The applicant (original claimant) No.1 Ashwini w/o. Ajinath Vighne is permitted to withdraw the amount of Rs.3,00,000/- (Rs. Three Lac Only) from the amount deposited in this appeal on behalf of appellant- Insurance Company subject to condition that the applicant No.1 shall furnish undertaking to the satisfaction of the learned Registrar (Judicial) of this Court to the effect that in case adverse situation arises, if any, after success of appellant in the appeal, the amount received by the applicant No.1 would be refunded forth-with as per order of this Court. Accordingly, the civil application stands disposed of in above terms.

[K. K. SONAWANE]
JUDGE

rrd.