

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

915 CIVIL APPLICATION NO. 10845 OF 2017 IN FA/2082/2014

NITA VIJAY RUPEKAR AND ANR
VERSUS
ICICI LOMBARD INSURANCE CO. LTD., THR ITS BRANCH
MANAGER, AURANGABAD AND ORS

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Advocate for Applicants : Mr. Pramod C. Mayure
Advocate for Respondent No.1 : Mr. R. H. Dahat
Adv.for Respondents No.3,4 : Mr. S.S.Tambolkar, Mr.S.V.More.
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CORAM : K.K. SONAWANE, J.

DATED : 22ND AUGUST, 2017.

Order :-

Heard learned counsel for the applicants. Perused the application.

2. The learned counsel for the applicants submits that, applicant No.1 is widow and applicant No.2 is old age mother of the deceased Vijay Rupekar. Due to sudden death of earning member of family, the applicants are suffering from hardship. Therefore, the applicants prayed for withdrawal of compensation amount deposited by respondent No.1 Insurance Company in this case.

3. Learned counsel for respondent No.1 Insurance Company raised objection and submits that, the respondent Insurance Company has every hope of success in appeal and in case amount disbursed to claimant, it would create hardship for the respondent - Insurance Company to recover the amount from the applicants in future.

4. It is to be noted that, the learned Tribunal after appreciating the facts and circumstances of the case on record passed impugned Judgment and Award, which is subject matter of the appeal.

5. In such circumstances, I do not find any impediment to allow the applicants-original claimants to withdraw 50 % amount from the deposited amount in this case by the respondent No.1 Insurance Company. It will not cause injustice and prejudice to them. In contrast, it will sub-serve the purpose for substantial justice. The applicants are hereby allowed to withdraw 50 % amount of Rs.7,39,180/- (Rs. Seven Lac Thirty Nine Thousand One Hundred Eighty Only) deposited by respondent No.1 Insurance Company in this Court. Hence, the application deserves to be allowed.

6. In the light of above, application stands allowed accordingly. The Registry to do the needful for payment of 50 % amount which accrued to around Rs.3,70,000/- (Rs. Three Lac Seventy Thousand Only) in favour of the applicants, subject to condition that applicant shall furnish undertaking to the satisfaction of the learned Registrar (Judicial) of this Court, that in case any adverse situation arises in future, the applicant will refund the amount as per order of this Court within stipulated period. Rest of the amount of 50 % be kept in FDR account of any nationalized bank for period of two (2) years or till decision of appeal on merit. Accordingly, the application stands disposed of.

Sd./-

[K. K. SONAWANE]
JUDGE