

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
938 CIVIL APPLICATION NO. 12154 OF 2017
IN FAST/7747/2017

SURESH BABURAO KHUDE (DECEASED) THR LRS SANGITA AND ORS
VERSUS

BAJAJ ALIANZ GENERAL INSURANCE CO. LTD. THR ITS
DIVISIONAL MANAGER, AHMEDNAGAR AN

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Advocate for Applicants : Mr. Dhakane Rajendra B.
Advocate for Respondent No. 1 : Mr. S. G. Chapalgoankar

CORAM : K. L. WADANE, J.

DATE : 6th October, 2017

ORDER:

1. This is an application for withdrawal of amount of compensation deposited by the respondent No.1/insurance company, in this Court.

2. Heard learned counsel appearing for the applicant as well as learned counsel appearing for the respondent No. 1/Insurance Company.

3. Learned counsel for the respondent No.1/insurance company submits that there was accident between two vehicles i.e. car and trailer. The injured was travelling in the car which gave dash to the trailer from back side. Learned Tribunal held that there was negligence on the part of the car driver to the extent of 60 % and negligence on the part of trailer driver to the extent of 40 %. In spite of this

specific determination of percentage of negligence, the learned Tribunal has not considered it while passing operative order and directed all the respondents were jointly and severally liable to pay the compensation. In view of the above, the entire amount of compensation shall not be paid to the claimants.

4. In view of the above situation, I am of the opinion at least 60 % amount of compensation can be paid to the applicants.

5. Civil Application is allowed.

6. The applicants are permitted to withdraw 60 % amount of compensation together with interest from the total amount of compensation deposited in this Court on the undertaking that in case any adverse orders are passed against them in the appeal, then they shall deposit the amount in this Court within a period of 12 weeks.

7. Civil Application is disposed of.

(K. L. WADANE, J.)

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