

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
69 CIVIL APPLICATION NO. 12730 OF 2017
IN FAST/11246/2017**

SWATI VILAS BHOJ AND ORS
VERSUS
NEW INDIA INSURANCE COMPANY LTD THR ITS DIV.
MANAGER, AURANGABAD AND ORS

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Advocate for Applicants : Mr. Mayure Pramod C
Advocate for Respondent No.1: Mr. S. G. Chapalgoankar

CORAM : K. L. WADANE, J.

DATE : 9th October, 2017

ORDER:

1. Heard learned counsel for the applicants as well as learned counsel for the respondent Insurance company.
2. This is an application filed by the applicants claimants for withdrawal of the amount of compensation deposited by the insurance company in this Court.
3. The learned counsel appearing for the respondent insurance company has opposed the application on the ground that there is inordinate delay in filing of the first information report. Furthermore, the learned counsel for the respondent Insurance company points out the infirmities in the oral as well as documentary evidence. The question raised by the learned counsel for the insurance company can be examined at the stage

of final hearing of the first appeal. From the record, it appears that the investigating officer has deposed about the involvement of the Car in the accident so also the owner and driver of the car have submitted their written statement and have admitted the fact of the accident, however, it is averred that there was negligence on the part of the deceased himself. Looking to the above, involvement of the vehicle in the accident is prima facie seen.

4. In view of the above, I am of the opinion that at least 60% of the amount deposited in the court can be permitted to withdrawn since the award is in favour of the applicants/ claimants.

5. Hence, the applicants are allowed to withdraw 60% of the amount deposited in this Court together with proportionate interest accrued thereon.

6. Civil Application disposed of.

(K. L. WADANE, J.)

JPC