

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 819 OF 2017  
WITH  
CIVIL APPLICATION NO. 3697 OF 2017  
IN  
FIRST APPEAL NO. 819 OF 2017**

Smt.Rupali Pawan Moule & Ors. ...Applicants

**IN THE MATTER BETWEEN**

Reliance General Insurance Company Ltd. ...Appellant

Versus

Smt.Rupali Pawan Moule & Ors. ...Respondents

.....

Mr.Sudhakar G. Thorat for the Applicants.

Mr.Rahul Mehta i/b. KMC Legal Venture for the Original Appellant  
in FA.

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**CORAM: MRS.MRIDULA BHATKAR, J.  
DATED: NOVEMBER 23, 2017**

**P.C. :**

1. Upon urgent mentioning, taken on Production Board.
2. This Application is moved for withdrawal of an amount deposited by the original appellant/insurance company pursuant to the judgment and award dated 06.04.2017 passed by the learned Member, Motor Accident Claims Tribunal, Kolhapur, in M.A.C.P.

No. 609 of 2014. The learned Member of the tribunal has granted compensation of Rs. 44,60,000/- with interest @ 9% p.a. The deceased Pawan Budha Moule died due to accident took place on 19.02.2014 at Kolhapur when he was on the motorcycle as a pillion rider.

3. Learned counsel for the applicants has submitted that the applicants are widow, minor children and parents of the deceased. He has further submitted that the children need money for education and family requires money for survival and, therefore, they be allowed to withdraw the amount of compensation.

4. Learned counsel for the insurance company while vehemently opposing this application, has submitted that the driver of the unknown vehicle was negligent and not the driver of the insured vehicle. He has further submitted that the applicants have failed to lodge a criminal complaint against the driver of the unknown vehicle and hence, the applicants are not to be allowed to withdraw the amount of the compensation.

5. Considering the judgment and award and the submissions of the learned counsel, applicant nos. 1, 4 and 5 are allowed to withdraw 50% of the amount of compensation with interest as per their entitlement on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

6. Civil Application is allowed and accordingly disposed of.

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7. Admit.

8. The appellant/insurance company to furnish copies of the appeal memo on the other side. The insurance company to file private paper book within a period of one year. Printing dispensed with. If the paper book is not filed within stipulated time, then the Appeal will be dismissed without referring to the Court. Service of the notice on the respondents/original claimants is dispensed with.

**(MRIDULA BHATKAR, J.)**