

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

CIVIL APPLICATION NO. 2637 OF 2018
IN FA/1762/2012

ASHWINI LT. SOMINATH KEKAN AND ORS
VERSUS
NEW INDIA ASSURANCE CO. LTD., THR ITS AUTHORIZED SIGNATORY,
AURANGABAD AND ORS

...
Advocate for Applicants : Mr. Rameshwar F. Totala.
Advocate for Respondent No.1 : Mr. D. P. Deshpande.
Advocate for Respondents No.2 and 4 : Mr. S. G. Mapari (Absent).
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CORAM : K.K. SONAWANE, J.

DATED : 22nd JUNE, 2018.

Order :-

Heard Mr. Totla, learned counsel for applicants-original claimants and Mr. Deshpand, learned counsel for respondent- Insurance Company. No one else appeared for rest of respondents. Perused the application.

2. It has been submitted that the applicants on earlier occasion preferred the application for withdrawal of the amount deposited in this Court. The coordinate bench of this Court (Coram: S.V.Gangapurwala, J) under Order dated 14th September, 2012, allowed the applicants/ original claimants to withdraw the amount of Rs. 2,50,000/- (Rs. Two Lakh Fifty Thousands Only) towards compensation deposited in the Court on certain terms and conditions. It was agreed to go for final hearing of appeal on merit. But, up till this date, proceedings of the appeal is still pending for final hearing. In view of colossal delay for adjudication of appeal on merit, I find that some part of amount

deposited in this court be allowed to be withdrawn by applicants-claimants for education purpose of minor applicant No.2 Aditya s/o. Sominath Kekan. Admittedly, the matter pertains to the compensation under Motor Vehicles Act. The applicants lost their bread winner of the family in the vehicular accident. In such circumstances, it would just and proper to allow the applicants-claimants to further withdraw the sum of Rs.1,00,000/- (Rs. One Lakh Only) from the balance amount of compensation of Rs.2,30,851/- (Rs. Two Lakh Thirty Thousand Eight Hundred Fifty One Only) deposited in Fixed Deposit Receipts account. Definitely, it would sub-serve the purpose of education of the minor applicant. Hence, application deserves to be allowed partly.

5. Therefore, application stands partly allowed. The applicants-original claimants are permitted to withdraw Rs.1,00,000/- (Rs. One Lakh Only) from the amount of compensation remained balance in this Court on furnishing undertaking that in case of contingency arises in this appeal, the applicant-original claimants would refund the amount forthwith as per direction of this Court. The Registry to do the needful for disbursement of the amount as mentioned above. The civil application stands disposed of in above terms.

[K. K. SONAWANE]
JUDGE