

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3967 OF 2018
IN
FIRST APPEAL (STAMP) NO.30495 OF 2017

Parwatibai Namdeo Jondhale and another **...APPLICANTS**

VERSUS

New India Insurance Co. Limited,
through its Divisional Manager, Aurangabad and another
...RESPONDENTS

Mr. G.G. Suryawanshi, Advocate for applicants
Mr. S.G. Chapalgaonkar, Advocate for respondent No.1

CORAM : SUNIL P. DESHMUKH, J.
DATE : 12-04-2018

ORDER :

1. Heard learned Counsel for the parties.
2. Learned Counsel for applicants submits that only earning hand of the family had been lost in accident, which took place in December 2005 and since then, applicants have been facing financial difficulties in day to day life. Their claim petition M.A.C.P. bearing No. 146 of 2008 had been granted to the extent of Rs. 3,72,000/- alongwith interest at the rate of 9% p.a. from the date of institution of the petition till realization of entire amount. Rs. 7,40,296/- have been deposited in this Court by appellant/insurer. The applicants are in dire need of amount for

day to day maintenance and livelihood. The learned Counsel, therefore, urges for withdrawal of the amount.

3. Learned Counsel appearing for appellant - Insurance Company submits that offence was registered against unknown vehicle and the alleged vehicle was not involved in the accident, and in such a case, the Insurance Company may not be held liable for payment of entire compensation amount. In the circumstances, he submits that expeditious disposal of the appeal may be proper.

4. Although learned Advocate for appellant/insurer has submitted so, it discernibly appears that there is no serious dispute about family requiring financial aid due to loss of earning source. As on the date, the decision by the Tribunal is in favour of applicants and it cannot be said that they do not require any financial assistance. Accident had taken place in 2005 and since then beyond the no-fault liability amount, applicants have not received any amount of compensation.

5. In the circumstances, having regard to aforesaid, it would be expedient to allow applicants to withdraw the amount deposited in this Court on following conditions.

(I) Applicants are allowed to withdraw 75% of the amount deposited in this Court alongwith accrued interest thereon, on furnishing an undertaking that applicants shall pay back/re-deposit the amount in this Court being withdrawn under this order, within a period of three months from the date of decision in appeal, if the decision goes against their interest. Undertaking to be filed within a period of three weeks from today.

(II) Rest 25% of the amount with accrued interest, is allowed to be withdrawn by claimants, subject to furnishing solvent security to the satisfaction of the Registrar (Judicial) of this Court.

6. Application is, accordingly, disposed of.

(SUNIL P. DESHMUKH)
JUDGE