

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

CIVIL APPLICATION NO. 2564 OF 2018
IN
FIRST APPEAL [STAMP] NO. 34820 OF 2017

Chandrashekhar s/o Ashokrao Mahakunde
and others ... Applicants
versus

Jalindar s/o Tukaram Chavan and another ...
Respondents

Mr. Pramod C. Mayure, Advocate for applicants
Mr. S. G. Chapalgaonkar, Advocate for respondents

CORAM : SUNIL P. DESHMUKH, J.
DATE : 13th April, 2018

ORDER :

1. Heard learned counsel for the parties.
2. Applicant suffered permanent disability in vehicular accident which is stated to have occurred by collision of his car with a tree, since offending vehicle i.e. truck coming from opposite side was being driven by driver in a rash and negligent manner. Applicant is medical practitioner and also an agriculturist and is the earning member for his family.
3. Learned counsel Mr. Chapalgaonkar appearing for appellant – insurance company submits that there is no

involvement of offending vehicle in this case. As a matter of fact, there may be sufficient evidence on record depicting that applicant himself was responsible for accident because of his rash and negligent driving. He, in the first place submits that insurer is not liable and secondly, not at least to the extent held by the tribunal under the award.

4. Looking at aforesaid while the award has been passed in favour of the claimant and there being no particular dispute that deceased has been an earning member but due to accident his income is severely affected and the family since 2013 has been deprived of income by him, it would be expedient to allow the applicants to allow fifty per cent of the amount deposited along with accruals thereon on following conditions:

(i) Twenty five per cent of the amount deposited in this court may be allowed to be withdrawn by applicant on furnishing undertaking to the satisfaction of the Registrar (Judicial) to the effect that the amount being withdrawn by him would be paid back / deposited by him in this court within a period of three months from the date of decision in the appeal, if it goes adverse to his interest.

(ii) Further twenty five per cent of rest of the deposited amount may be withdrawn by applicant on furnishing solvent security to the satisfaction of the Registrar (Judicial) of this court.

7. Balance amount lying deposited in this court may be invested in a nationalized bank earning interest.

8. Civil application is disposed of.

SUNIL P. DESHMUKH,
JUDGE

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