

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

CIVIL APPLICATION NO. 2483 OF 2018
IN FA/1522/2007

VITHAL SANDU WAGH AND ANR
VERSUS
UNITED INDIA INSURANCE CO. LTD., THR ITS DIV.
OFFICE,AURANGABAD AND ANR

...
Advocate for Applicants : Mr. K. F. Shingare.
Advocate for Respondent No.3 : Mr. S. V. Kulkarni.
...

CORAM : K.K. SONAWANE, J.

DATED : 25th JUNE, 2018.

Order :-

1. Heard learned counsel for the applicants and respondent -Insurance Company. Despite service, no one else appeared on behalf of respondent No. 2- driver of the offending vehicle.
2. Perused the application. Learned counsel for the applicant-claimants submits that present appeal is pending since 2007. On earlier occasion in the year 2011, the applicants were allowed to withdraw meagre amount of Rs. 1,00,000/- (Rupees One Lakh). Since then the applicants are waiting for compensation, which has already been granted by the Tribunal in the year 2007. Therefore, the learned counsel for the applicants fervidly contends to allow the applicants to withdraw the compensation amount deposited in this court.
3. Admittedly, the record adumbrates that present claim petition came to be filed in the year 2004, however, the learned Tribunal adjudicated the claim petition and allowed the same in the year 2007. Thereafter, appellant-Insurance Company challenged the legality and propriety of the award passed by the learned Tribunal by this appeal in the year 2007. since then the claimants are waiting for justice in the present matter. It is not in dispute that appellant -Insurance Company has deposited the amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty

Thousand) towards compensation in this court. The claimants were allowed to withdraw Rs.1,00,000/-(Rupees One Lakhs) from the amount deposited in this court in the year 2011. It is essential to take into consideration that since 2011 there were no endeavour to pursue the matter on behalf of the appellant-Insurance Company for final hearing on merit. In such circumstances, it would not justifiable to preclude the claimants - applicants for enjoying the fruits of the award, which has been come to be passed in the year 2007. Hence, there is no impediment to allow the applicants for withdrawal of amount deposited in this court by the Insurance company, pending present appeal.

4. Accordingly, application stands allowed. The applicants are permitted to withdraw the amount deposited in this court on behalf of the appellant - Insurance Company towards compensation subject to furnishing undertaking to the effect that they would refund the amount so withdrawn in this court in case any contingency arises in this appeal. The Registry to do the needful for disbursement of the amount in favour of the applicants-claimants.

5. Accordingly application for withdrawal of the amount stands disposed of.

Sd/-

[K. K. SONAWANE]
JUDGE

MTK.