

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

977 CIVIL APPLICATION NO. 3079 OF 2018
IN FA/692/2017

ROHINI SHASIKANT CHAUDHARI AND ORS
VERSUS
THE NEW INDIA ASS. COMPANY LTD THR ITS AUTHORIZED
OFFICIAL AND DIV. MANAGER, AURA

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Mr. Nitin B. Suryawanshi Advocate for Applicants
Mr. A.S. Usmanpurkar, Advocate for respondent No. 1
Mr. N.R. Shaikh, Advocate for respondent No. 2
Mr. U.S. Patil, Advocate for respondent No. 3

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 23rd MARCH, 2018.

Order :-

1. Heard learned counsel for the parties.
2. Leave to amend.
3. Learned counsel for applicants submits that, the applicants are original claimants in MACP No. 246 of 2013 wherein an amount of Rs. 12,43,000/- has been awarded as compensation with interest @ 7.5% per annum from the date of application. The award refers to that amount of Rs.5,00,000/- be invested in fixed deposit in any nationalized bank since original claimants No.2 and 3 are minors. It further appears that entire amount has been deposited pursuant to the order on the application of stay.

4. Learned counsel contends that accident had taken place in 2013 and the applicants have lost their earning hand. No amount of compensation as per award has been received by the applicants. The applicants are in dire need of money for day to day expenses as well as medical expenses of applicants No. 4 and 5.

5. Learned counsel for the appellant-Insurer submits that evidence would depict that deceased himself had been negligent and in the circumstances liability may not be incurred by the insurer. He further purports to submit that it may not be the case that all applicants can be said to be dependent of deceased.

6. However, having regard to that accident had taken place in 2013 and applicant No. 1 required money for day to day expenses and medical expenses of applicants No. 4 and 5, do not appear to be improper. In the circumstances, it would be expedient to allow applicants to withdraw sum of Rs.10,00,000/- (Rs. Ten Lakh) along with accrued interest thereon on following conditions.

- i) Applicants are allowed to withdraw amount of Rs. 7,50,000/- deposited amount in this court along with accrued interest, on condition of furnishing undertaking that claimants shall pay back / re-deposit the amount being withdrawn under this order within a period of three

months from the date of decision in appeal, if the decision goes adverse to their interest.

ii) Further amount of Rs.2,50,000/- is allowed to be withdrawn by the claimants subject to furnishing solvent surety to the satisfaction of Registrar (Judicial) of this court.

7. Civil application accordingly stands disposed of.

[SUNIL P. DESHMUKH]
JUDGE

MTK.