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

FIRST APPEAL NO. 1284 OF 2011

National Insurance Company
Limited, having its Head
and Registered office
at Kolkatta, Divisional
Offices at Sholapur
and Aurangabad ...Appellant
[Orig.Resp.No.2]

VERSUS

1] Sunita w/o Eknath Patil,
age 58 years, occ. Household,
R/o Tadwale (Yawali),
Tal. Barshi, District Sholapur,
at present R/o Kasbe Tadwale,
Tal. And Dist. Osmanabad,

2] Prasad Eknath Patil,
age 40 years, occ. Agriculture,
R/o as above,

3] Shriram Eknath Patil,
age 34 years, occ. Agriculture,
R/o as above,

4] Sahabajkhan s/o Gulabkhan Pathan,
age major, occ. Business,
R/o Islampur, Beed, at Post
Tal. And Dist. Beed,

5] Shivling s/o Dattatraya Ambale,
age major, R/o Somnath Galli,
Koshtiwada, at Post Vairag,
Tal. Barshi, Dist. Sholapur,

6] Sau. Padmnibai w/o Shivling Ambale,
age major, occ. Household,
r/o as above of No. 5,

7] The Divisional Manager,
United India Insurance
Company Limited,
Divisional Office, Janata
Shopping Centre,
Navi Peth, Sholapur ...Respondents
[Nos. 1 to 3 orig. claimants
Nos. 5 to 7 Orig. Respondents]

...

Shri D.S.Kulkarni, advocate for Appellant
Shri C.K.Shinde, advocate for Resp. Nos. 1 to 3
Shri A.G.Kanade, advocate for Resp. no.7,
Respondent nos. 5 and 6 served
Respondent no.4 abated

...

FIRST APPEAL NO. 1288 OF 2011

1] Sunita w/o Eknath Patil,
age 57 years, occ. Household,
R/o Tadwale (Yawali),
Tal. Barshi, District Sholapur,
at present R/o Kasbe Tadwale,
Tal. And Dist. Osmanabad,

2] Prasad Eknath Patil,
age 39 years, occ. Agriculture,
R/o as above,

3] Shriram Eknath Patil,
age 33 years, occ. Agriculture,
R/o as above. ...Appellants
[Orig.Claimants]

VERSUS

1] Sahabajkhan s/o Gulabkhan Pathan,
age major, occ. Business,
R/o Islampur, Beed,
Dist. Beed,died through L.Rs.

1-A) Smt. Halimabee w/o Shahbaz
Khan Pathan, age 53 years,
Occ. Household, R/o Islampura,
Near Ghauri Nashim Masjid,
Beed, Dist. Beed,

1-B) Naseer Shahbaz Khan Pathan,
age 37 years,Occ. Business,
R/o as above,

1-C) Mahjid Khan Shahbaz Khan Pathan,
age 33 years,Occ. Business,
R/o as above,

1-D) Shabeer Shahabaz Khan Pathan,
age 29 years,Occ. Business,
R/o as above,

1-E) Nazir Shahbaz Khan Pathan,
age 24 years,Occ. Business,
R/o as above,

1-F) Nashar Shahbaz Khan Pathan,
age 21 years,Occ. Business,
R/o as above,

2] National Insurance Company
Limited, Branch Jalna,
Through : The Divisional
Manager, National Insurance
Co. Ltd., Divisional Office,
Shubhry Towers,4th Floor,
Datta Chowk, Solapur.

3] Shivling s/o Dattatraya Ambale,
age years, occ.
Somnath Galli, Koshti Wada,
Vairag,
Tal. Barshi, Dist. Sholapur,

4] Sau. Padmnibai w/o Shivling Ambale,
age years, occ. Household,
r/o as above,

5] The Divisional Manager,
United India Insurance
Company Limited,
Divisional Office, Janata
Shopping Centre,
Navi Peth, Sholapur ...Respondents

...

Shri C.K.Shinde, advocate for Appellant
Shri S.V.Kulkarni, advocate for Resp. No.2
Shri K.D.Bade Patil, advocate for Resp. nos.3 & 4,
Shri A.G.Kanade, advocate for Resp. no.5
Respondent nos. 1-A to 1-F served

...

FIRST APPEAL NO. 1674 OF 2010

National Insurance Company
Limited, having its Head
and Registered office
at Calcutta, Divisional
Offices at Sholapur
and Aurangabad ...Appellant
[Orig.Resp.No.2]

VERSUS

1] Prasad Eknath Patil,
age 38 years, occ. business,
R/o Tadwale (Yawali),
Tal. Barshi, District Sholapur,
at present R/o Kasbe Tadwale,
Tal. And Dist. Osmanabad,

2] Sahabajkhan s/o Gulabkhan Pathan,
age major, occ. Business,
R/o Islampur, Beed,
through L.Rs.

2-A) Smt. Halimabee w/o Shahbaz
Khan Pathan, age 52 years,
Occ. Household, R/o Islampura,
Near Gorhi Nashim Masjid,
At Post Tq. and Dist. Beed,

2-B) Nashir Shahbaz Khan Pathan,
age 36 years,

2-C) Mahjid Khan Shahbaz Khan Pathan,
age 32 years,Occ. Business,

2-D) Shabeer Shahabaz Khan Pathan,
age 28 years,Occ. Business,

2-E) Nazir Shahbaz Khan Pathan,
age 24 years,Occ. Business,
R/o as above,

2-F) Nashar Shahbaz Khan Pathan,
age 20 years,

Nos. 2B to 2F r/o as per
address of No. 2A,

3] Shivling s/o Dattatraya Ambale,
age major, occ. Agril.,
R/o Somnath Galli,Koshti Wada,
A/p Vairag,
Tal. Barshi, Dist. Sholapur,

4] Saw. Padmnibai w/o Shivling Ambale,
age major, occ. Household,
r/o as above,

5] The Divisional Manager,
United India Insurance
Company Limited,
Divisional Office, Janata
Shopping Centre,
Navi Peth, Sholapur ...Respondents
[No. 1 orig. claimant
Nos. 2 to 5 Orig. Resp.
Nos. 1, 3 to 5]

...

Shri D.S.Kulkarni, advocate for Appellant
Shri S.D.Ghayal, advocate for Resp. Nos.2-A to 2-F,
Shri S.T.Ghute, advocate for Resp.no.1 absent,
Shri S.G.Chapalgaonkar, advocate for Resp. no.5,

...

CORAM : SUNIL K.KOTWAL, J.

DATE OF RESERVING THE JUDGMENT : 21.11.2018
DATE OF PRONOUNCEMENT OF JUDGMENT : 29.11.2018

J U D G M E N T :

First Appeal No. 1284 of 2011 is filed by original respondent no.2 insurance company of the Truck No. MH-23/983 (offending truck) against the judgment and award passed in Motor Accident Claim Petition No. 184 of 2001; First Appeal No. 1288 of 2011 is counter appeal filed by claimants in the same Motor Accident Claim Petition, against the same judgment and award, passed by the Motor Accident Claims Tribunal, Osmanabad. First Appeal No. 1674 of 2010 is filed by same insurance company of the same truck, but against the award, passed by the Motor Accident Claims Tribunal, Osmanabad in Motor Accident Claim Petition No. 182 of 2001. These three Appeals arise out of one and the same accident, dated 7.2.2001, occurred in between same vehicles. Therefore, these three Appeals are disposed of by this common judgment.

2. Facts, leading to institution of these Appeals are that on 7.2.2001, deceased Eknath Patil along with his family members, including the

claimants and deceased Pradnya Patil, was proceeding by Jeep No. MH-13/N-2733 from Latur towards Barshi direction while returning to his village Tadwale (Yawali), Taluka Barshi. When that jeep reached near the field of Jairam Namdeo Kadam, the offending truck came from opposite direction in high speed and by coming towards wrong side of the road, the offending truck gave dash to the jeep which was proceeding by left side of the road in moderate speed. Due to the heavy dash given by the offending truck, deceased Eknath Patil, his daughter-in-law Pradnya Patil and some of other passengers travelling by the said jeep died. Prasad Eknath Patil, who was also travelling by the said jeep, lodged report against the driver of the offending truck to police station Murud. In the result, Crime No. 8 of 2001 was registered against the driver of the offending truck under Sections 279, 337, 338, 304A of the Indian Penal Code. Therefore, the dependents of Eknath Patil filed Motor Accident Claim Petition No. 184 of 2001 for compensation. Even Prasad Eknath Patil filed separate Motor Accident Claim Petition No. 182 of

2001 for compensation for the accidental death of his wife Pradnya Prasad Patil. Motor Accident Claim Petition No. 184 of 2001 was partly allowed and compensation of Rs.5,12,876/- was awarded and liability was saddled on original respondent nos. 1 and 2 i.e. truck owner and insurance company of the truck. The jeep owner and insurance company of the jeep involved in the accident were absolved from any liability. Even Motor Accident Claim Petition No. 182 of 2001 was partly allowed and compensation of Rs.2,81,500/- was awarded and liability was saddled on original respondent nos. 1 and 2. These both awards are challenged by the insurance company of the offending truck in the present Appeals. Even claimants in Motor Accident Claim Petition No. 184 of 2001 claimed enhancement of compensation by filing Appeal against the award passed in Motor Accident Claim Petition No. 184 of 2001. No appeal is filed by claimant in Motor Accident Claim Petition No. 182 of 2001.

3. Heard Shri D.S.Kulkarni, learned counsel for the insurance company of the offending truck;

Shri C.K.Shinde, learned counsel for original claimants; and Shri A.G.Kanade, learned counsel for the insurance company of Jeep involved in accident.

4. Learned counsel for the insurance company of offending truck assailed the judgment and award, passed in both claim petitions, on the ground that though no eye witness was examined by claimants and though panchanama shows that there was head on collision between offending truck and jeep involved in the accident, the learned Tribunal erroneously exonerated the jeep owner, driver and insurance company of the jeep from all liabilities. He submits that the head on collision between truck and the jeep indicates that even the driver of the jeep drove the vehicle in rash and negligent manner, and therefore, there was contributory negligence on the part of the driver of the jeep involved in the accident. He submits that in the circumstances,the liability to pay the compensation shall be equally apportioned in between the owner, insurance company of the truck and owner of the jeep and insurance company of the jeep.

He has placed reliance on **"Uttar Pradesh Rajya Sadak Pariwahan Nigam vs Shalini Pratap and others" [2018 (3) TAC 536 (Allahabad)].**

Next contention of learned counsel for the insurance company of offending truck is that in Motor Accident Claim Petition No. 184 of 2001 exorbitant compensation was awarded by the Tribunal on the basis of income of the deceased from agricultural land. He submits that even after the death of deceased, the claimants continued to get income from the agricultural land of the deceased, which was inherited by them. He submits that the claimants are entitled to compensation only under the head of "loss of supervision", and therefore, compensation awarded to the claimants in Motor Accident Claim Petition No. 184 of 2001 deserves to be reduced. He placed reliance on **"M.S.R.T.C. Mumbai vs Dilip Kate and others"**, decided by this Court in **First Appeal No. 2771 of 2017 on 6.7.2018.**

5. Learned counsel for original claimants submits that under non-pecuniary damages, less

compensation is awarded by the Tribunal and the interest on compensation amount is to be enhanced at the rate of nine per cent per annum from the date of filing of claim petition.

He placed reliance on "**National Insurance Company Limited vs Pranay Sethi and others" [2018 (3) Mh.L.J. 70]** and "**Kishan Gopal and others vs Lala and others" [2013 (5) ALLMR 899].**

6. With the assistance of the learned counsel for both the parties, I have carefully gone through the record and proceeding of Motor Accident Claim Petition No. 184 of 2001 and No. 182 of 2001.

7. After hearing learned counsel for parties, the only points for consideration before me are that :

> 1) Whether the insurance company of offending truck can prove contributory negligence on the part of the driver of the Jeep No. MH-13/N-2723 involved in the accident ?
>
> 2) Whether the compensation awarded by the Tribunal is exorbitant or

inadequate ?

8. Though, learned counsel for original respondent no.2 insurance company submits that no eye witness is examined by the claimants, after going through the record and proceeding, it emerges that factually the above argument is incorrect, for the simple reason that the claimant Prasad Eknath Patil (PW 1) is examined, who was travelling by the above said jeep at the time of accident and who lodged the first information report to police station Murud after occurrence of the accident. After going through the testimony of Prasad Patil (PW 1), it emerges that he is the son of deceased Eknath Digambar Patil and husband of deceased Pradnya Prasad Patil. On the date of accident i.e. 7.2.2001 he was also one of the passenger travellilng by Jeep No. MH-13/N-2723 from Latur towards Barshi direction by Latur Barshi road and his friend Anil Ambale, who was also owner of that jeep, was driving it in moderate speed by left side of the road. From the testimony of Prasad Patil (PW 1), it further emerges that at about 4.00 p.m. when

that jeep reached near village Borgaon (Kale), that time the offending truck came from opposite direction in high speed and due to rash and negligent driving of the driver of that truck, he lost control over the truck and by taking the truck towards wrong side of the road, gave forceful dash to the jeep, by which this witness, deceased and other family members of the deceased were travelling. In that accident, deceased Eknath Patil, his servant Girjabai Koli, driver Anil Ambale, deceased Pradnya Patil, relative Lata Dilip Shahane and sister of this witness, namely Gitanjali Deshpande died. This witness has categorically stated that the accident occurred only due to rash and negligent driving by the driver of the truck, and jeep driver is not responsible for the accident.

9. It is to be noted that Prasad Patil (PW 1) was cross-examined by learned counsel for respondent no.2 insurance company at length. However, the entire cross-examination was restricted on the point of income of deceased and

income from the agricultural land of the joint family of deceased and claimants. It is most surprising to note that though insurance company took the plea of contributory negligence by driver of the jeep, no question is asked regarding circumstances under which the accident occurred. Even suggestion is not given to Prasad Patil (PW 1) that the accident occurred due to rash and negligent driving by driver of the jeep. It is important to note that version of Prasad Patil (PW 1) that the accident occurred because the truck driver drove truck in high speed, lost control and by coming towards wrong side of the road, gave forceful dash to the jeep, remained unchallenged. Therefore, on the basis of this unchallenged testimony of Prasad Patil (PW 1), certainly the claimants have proved that the accident occurred only due to rash and negligent driving of the driver of the offending truck and there was no contributory negligence on the part of jeep driver.

10. Otherwise also, the copy of the first information report lodged by Prasad Patil (PW 1) supports his oral evidence in all respect. Even

the spot panchanama marked D-13 of the spot of accident shows that due to dash given by truck, the jeep was tossed in the field of Jairam Namdeo Kadam, which is on the southern side of Latur Barshi road. The situation on the spot and the total damage to the jeep, as mentioned in the spot panchanama, indicates that the offending truck had even dashed with great force to the jeep, by which the deceased and eye witness Prasad Patil were travelling. Under these peculiar circumstances, the ratio of **Uttar Pradesh Rajya Sadak Pariwahan Nigam vs Shalini Pratap and others** (supra) is distinguishable on facts. Otherwise also, there cannot be precedent on the point of contributory negligence by driver of vehicle involved in the accident, but it is to be determined on the basis of only circumstantial and oral evidence available on record.

11. In addition to this, another damaging circumstance against the original respondent no.2 insurance company is that to prove contributory negligence by jeep driver, the driver of offending

truck is not examined, who would have been the best witness to substantiate the contention of the insurance company. Accordingly, my conclusion is that the insurance company of the offending truck failed to prove that the accident occurred due to contributory negligence on the part of jeep driver. Therefore, no liability to pay compensation can be saddled on the owner and the insurance company of the jeep involved in the accident. As held by the Tribunal, as the accident occurred only due to rash and negligent driving of the driver of the offending truck, only original respondent nos. 1 and 2 are jointly and severally liable to pay compensation to the claimants in both the Motor Accident Claim Petitions.

QUANTUM OF COMPENSATION IN MOTOR ACCIDENT CLAIM PETITION NO. 184 OF 2001

12. The quantum of compensation awarded in Motor Accident Claim Petition No. 184 of 2001 is also challenged by the insurance company as exorbitant. After going through the judgment, passed by the Tribunal, it emerges that after

considering bills issued by Adat shop of one Daithankar, the Tribunal held that the income of the deceased Eknath Patil from his agricultural products is 2,35,957/-. After deducting 60 per cent cost of production, the net annual income of the deceased was assessed as 94,388/-. However, as observed by this Court in **M.S.R.T.C. Mumbai vs Dilip Kate and others** (supra), the income from agricultural land would be fluctuating in every year and even after the death of deceased, the claimants, who are legal heirs as well as legal representatives of the deceased would continue to get income from the said joint family agricultural land. Therefore, compensation cannot be awarded on the basis of income of the deceased from his agricultural land or sale of agriculture products. As held in above cited authority, compensation of Rs.6,000/- per month can be awarded to the claimants under the head of “loss of income due to loss of supervision over agricultural land” due to death of deceased Eknath Patil. Therefore, in Motor Accident Claim Petition No. 184 of 2001, the annual loss of income sustained by the claimants on account of loss of supervision over agricultural land due to death of the deceased can be assessed as Rs.6000x12=72000/-.

In view of law laid down by the Apex Court **National Insurance Company Ltd. Vs Pranay Sethi and others** (supra), when deceased is self-employed in between age of 50-60, in addition to actual income of the deceased, ten per cent addition is to be made under the head of 'loss of future prospects'. Therefore, after addition of this ten per cent amount, annual income of the deceased comes to Rs.72000+7200=79200/-.

In view of guidelines issued by the Apex Court in **"Smt. Sarla Verma and Ors. vs Delhi Transport Corporation and Anr." [2009 (5) Mh.L.J. 775]**, 1/3rd amount is to be deducted from the annual income towards personal expenses of the deceased. Thus, after deducting 1/3rd amount, annual contribution of the deceased to his family comes to Rs. 79200-26400=52800/.

13. According to the claimants, at the time of death, deceased was 55 years of age. The postmortem report does not show age of the deceased. However, in the inquest panchanama, age of the deceased is mentioned as 50 years. No other documentary evidence is placed on record by the claimants to prove the exact age of the deceased. Therefore, accepting the plea of claimants, I hold that the deceased was 55 years old at the time of his death. Therefore, in view of guidelines issued by the Apex Court in **Smt. Sarla Verma and Ors. vs Delhi Transport Corporation and Anr.** (supra) multiplier of 11 is applicable in the case at hand. Thus, loss of dependency is assessed as Rs.52800x11=580800/-.

14. In addition to this, in view of law laid down by the Apex Court in **National Insurance Company Ltd. Vs Pranay Sethi and others** (supra) the claimants are entitled to following compensation under conventional head.

Head	Rs.
Loss of consortium	40000/-
Loss of Estate	15000/-
Funeral Expenses	15000/-

Thus, the claimants are entitled for total following compensation under different heads : -

Head	Rs.
Loss of Dependency	580800/-
Loss of consortium	40000/-
Loss of Estate	15000/-
Funeral Expenses	15000/-
Total	650800/-

15. It is to be noted that the insurance company by filing this appeal dragged the claimants in the Court for the period of 7 years. Therefore, in view of the **Municipal Council of Delhi vs Association of Victims of Uphaar Tragedy [(2011) 14 SCC 481]**, and **Kishan Gopal vs Lala** (supra), the claimants are entitled to interest on this compensation amount at the rate of nine per cent per annum from the date of filing of petition till realization of the compensation amount.

16. Claimant nos. 2 and 3 being major earning sons of the deceased cannot be dependents and they are not entitled to get any compensation. Only claimant no.1 being widow of the deceased is entitled to get the entire compensation amount.

17. In view of the discussion, First Appeal No. 1284 of 2011 filed by the insurance company deserves to be dismissed and First Appeal No. 1288 of 2011 filed by the claimants for enhancement deserves to be partly allowed.

QUANTUM OF COMPENSATION IN MOTOR ACCIDENT CLAIM PETITION NO. 182 OF 2001

18. In Motor Accident Claim Petition No. 182 of 2001, the claimants claim compensation on the ground that deceased Pradnya Prasad Patil was 25 years old at the time of her death and she used to earn Rs.2000/- per month by tailoring work. Deceased also used to supervise the agricultural operations in agriculture land of her husband.

19. Though learned Tribunal did not accept that the deceased was tailor by profession, considering

the age and earning capacity of deceased, the Tribunal held that the monthly income of the deceased was Rs.2000/-. Otherwise also, as ruled by the Apex Court in "**Lata Wadhwa and others v. State of Bihar" (AIR 2001 SC 3218),** the notional income of the house wife has to be assessed as Rs.3000/- per month. Therefore, the income assessed by the Tribunal at the rate of Rs.2000/- as monthly income of the deceased cannot be faulted.

From the postmortem notes, it emerges that at the time of death, the deceased was 25 years old. Therefore, in view of law settled by the Apex Court in **National Insurance Company Ltd. Vs Pranay Sethi and others** (supra), the deceased being self-employed person below age of 40 years, 40 per cent income is to be added while assessing her monthly income. Therefore, the monthly income of the deceased is assessed as Rs.2000+800=2800/-. The annual income of the deceased comes to Rs.2800x12=33600/-. As the claimant is sole dependent in the family of the deceased, 1/3rd amount is to be deducted towards personal expenses of the deceased. Thus after deduction of personal expenses of the deceased the amount comes to Rs.33600-11200=22400/-.

As the deceased was 25 years old at the time of her death, in view of law laid down by the Apex Court in **"Smt. Sarla Verma and Ors. vs Delhi Transport Corporation and Anr."** (supra), multiplier of 18 is applicable in the case at hand. Thus, loss of dependency is assessed as Rs.22400x18=403200/-.

In addition to this, in view of law laid down by the Apex Court in **National Insurance Company Ltd. Vs Pranay Sethi and others** (supra) the claimant is entitled to following compensation under conventional head.

Head	Rs.
Loss of consortium	40000/-
Loss of Estate	15000/-
Funeral Expenses	15000/-

Thus, the claimant is entitled for total following compensation under different heads : -

Head	Rs.
Loss of Dependency	403200/-
Loss of consortium	40000/-
Loss of Estate	15000/-
Funeral Expenses	15000/-
Total	473200/-

20. Learned counsel for insurance company raised objection that in absence of cross-objection, the claimant cannot get enhanced compensation than awarded by the Tribunal. However, even in this First Appeal, it is the duty of this Court to assess fair compensation payable to the claimant. As ruled by the Apex Court in the case of **Jitendra Khimshankar Trivedi and others vs Kasam Daud Kumbhar and others [2015 (4) SCC 237]**, even in absence of Cross-objection, the court can enhance the compensation as just and fair.

21. Therefore, First Appeal No. 1674 of 2010 filed by the insurance company deserves to be dismissed. The award passed by the Tribunal in Motor Accident Claim Petition No. 182 of 2001

deserves to be modified to enhance the compensation payable to the claimant to the tune of Rs.473200/- with interest thereon at the rate of nine per cent per annum from the date of filing of petition till deposit of the amount.

22. Accordingly, First Appeal No. 1284 of 2011 is dismissed and First Appeal No. 1288 of 2011 is partly allowed. First Appeal is No. 1674 of 2010 is dismissed. The award passed by the Motor Accident Claim Tribunal, Osmanabad in Motor Accident Claim Petition No. 184 of 2001 is modified as under :

1	Claim petition is partly allowed with proportionate costs.
2	Respondent nos. 1 and 2 do jointly and severally pay compensation of Rs.650800/- to claimant no.1 with interest thereon at the rate of nine per cent per annum from the date of filing of petition till deposit of the amount.
3	Compensation amount shall be inclusive of compensation received under no fault liability.
4	Claim petition is dismissed against respondent nos. 3 to 5.

5	On deposit of this compensation, 50 per cent amount shall be invested in the fixed deposit in the name of claimant no.1 Sunita Eknath Patil in any Nationalised Bank for a period of three years and remaining 50 per cent amount shall be paid to the claimant no.1 through Tribunal by account payee cheque.
6	Premature withdrawal is not permissible.
7	Concerned Bank be informed accordingly.
8	Award be drawn accordingly.

23. The award passed by the Motor Accident Claim Tribunal, Osmanabad in Motor Accident Claim Petition No. 182 of 2001 is modified as under :

1	Claim petition is partly allowed with proportionate costs.
2	Respondent nos. 1 and 2 do jointly and severally pay compensation of Rs.473200/- to claimant with interest thereon at the rate of nine per cent per annum from the date of filing of petition till deposit of the amount.
3	Compensation amount shall be inclusive of compensation received under no fault liability.
4	Claim petition is dismissed against respondent nos. 3 to 5.
5	On deposit of this compensation, 50 per cent amount shall be invested in the fixed deposit in the name of claimant in any Nationalised Bank for the period of three years and remaining 50 per cent amount shall be paid to the claimant through Tribunal by account payee cheque.
6	Premature withdrawal is not permissible.

7	Concerned Bank be informed accordingly.
8	Award be drawn accordingly.

24. Parties to bear their respective costs of the appeals.

25. If compensation amount is deposited in this Court, the same be transmitted to Motor Accident Claims Tribunal, Osmanabad for payment of compensation to the claimants, by account payee cheques, in accordance with modified award.

[**SUNIL K.KOTWAL, J.**]

dbm