IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2504 OF 2018
IN AO/53/2017

FARZANABEGUM MOHAMMAD SAYEED AND OTHERS
VERSUS
RANA TILAKRAJ BRIJLAL KHURANA AND OTHERS

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Mr. H.I. Pathan, Advocate for applicants
Mr. S.S. Rathi, Advocate for respondent no.1
Mr. S.G. Chapalgaonkar, Advocate for respondents no.5 and 6

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CORAM : SUNIL P. DESHMUKH, J.
DATE : 11-04-2018

ORDER :

1. Heard learned counsel for the applicant and learned counsel for appellant.

2. Deceased had been the only earning member in the family. Mohammad Sayyed, who was husband of applicant no.1 and father of applicants no.2 to 6 and son of deceased applicant no.7, died in accident which had taken place in the year 2005. Applicants state that deceased was the only earning source for the family and with his death, the source of livelihood has been removed. Since his death, applicants have not received any compensation for his death in the accident save no-fault liability amount. With the passage of time, the economic condition of the

family has worsened. The needs of the family have grown. The money is required not only for day to day living but also for education purpose of applicants no.4 to 6 and marriages of daughters. It is further being referred to that motor accident claims tribunal, on the basis of evidence adduced, has granted compensation to the applicants to the tune of Rs.13,88,000/- with interest thereon at the rate of 7% per annum from the date of application.

3. On the other hand, owner of the offending vehicle is before this court as appellant, submitting that despite driver being holding valid licence, the insurance company has been exonerated from liability of payment under the insurance policy. As a matter of fact, learned counsel submits that the driver did hold valid driving licence on the date of accident, however, for the circumstances as are referred to in Misc. R.J.E. no. 1 of 2011, he had been prevented from approaching tribunal in time. He, therefore, submits that liability will have to be borne by the insurance company.

4. Having regard to aforesaid, it would be expedient to allow applicants no. 1 and 7 and 8 to withdraw the amount deposited by appellant in this court along with interest accrued thereon in the proportion of their apportionment and as referred to

in the award subject to filing undertaking by applicants that the amount so withdrawn would be paid back / re-deposited by them in this court within a period of three months from date of decision in the appeal, if the same goes against the applicants. Undertaking to be filed within a period of three weeks from today. Amounts in the shares of applicants no. 4 to 6 be invested by applicant no.1 in fixed deposit receipts of a nationalized bank and interest accrued thereon be expended on them. Copies of fixed deposit receipts be furnished to the court.

5. Civil application accordingly is disposed of.

[SUNIL P. DESHMUKH]
JUDGE

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