

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

CIVIL APPLICATION NO. 4273 OF 2018
IN
FIRST APPEAL [STAMP] NO. 6312 OF 2017

Nirmala Ravi Kuber and others .. Applicants

versus

Reliance General Insurance Company
and others .. Respondents

Mr. Deepak S. Manorkar, Advocate for applicants
Mr. S. S. Patil, Advocate for respondent no. 1
Mr. M. K. Deshpande, Advocate for respondent no.3

CORAM : SUNIL P. DESHMUKH, J.
DATE : 9th April, 2018

ORDER :

1. This is an application by claimants for withdrawal of compensation amount which has been deposited in this court pursuant to the award passed by the motor accident claims tribunal, Aurangabad. The claimants are widow, son and parents of deceased Ravi Kuber.

2. Ravi Kuber, according to learned counsel for applicants, was earning hand in the family and with his loss, the family has been deprived of income which he used to earn. It has been submitted that the family has been passing through horrifying period because

despite their claim being granted except for no fault liability the family has not received any amount. It has become difficult living daily life, coupled with education problems of son and other difficulties faced by the family. He, therefore, seeks withdrawal of the amount deposited.

3. On the other hand, learned counsel Mr. Patil for respondent – insurer submits that involvement of the vehicle itself is doubtful and in the circumstances, the insurance company may not be liable to bear burden of compensation. Joint and several liability has been fastened onto the insurer and owner of the vehicle. He submits that record can be said to be rather manipulated. He, therefore, purports to resist the application.

4. Looking at that earning hand of the family had been lost in 2012 and since then except no fault liability amount no further amount is paid to the claimants and as on the date tribunal's award is in their favour, it would be expedient that the applicants be allowed to withdraw seventy five per cent of the amount deposited in this court. Hence, following order.

(i) (a) Applicants may withdraw fifty per cent of the total deposited amount on furnishing undertaking to the Registrar (Judicial) of this court to the effect that in the event appeal is decided adverse to their interest, they shall pay back / deposit the amount being withdrawn by them in this court

within a period of three months from the date of decision in first appeal.

(b) Amount be withdrawn according to apportion under the award and be given the treatment as referred to in operative part of the award by the tribunal in motor accident claim petition no. 146 of 2013.

(ii) Applicants may withdraw further amount of 25 per cent with interest accrued thereon subject to furnishing solvent security to the satisfaction of the Registrar (Judicial) of this court.

(iii) Rest of the 25 per cent amount be invested in fixed deposit receipt of a nationalized bank earning interest.

5. Civil application is accordingly disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd