

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3585 OF 2018
IN FAST/33230/2017
(**WITHDRAWAL**)

CHANDRAKALA ADINATH SABLE AND ORS.
VERSUS
IFFCO TOKYO GENERAL INSURANCE CO. LTD., THROUGH
ITS AUTHORIZED SIGNATORY BRANCH OFFICE,
AURANGABAD AND ORS.

...
Mr. Z.M. Pathan, Advocate for applicants
Mr. Mohit Deshmukh, Advocate h/f Mr. S.G. Chapalgaonkar, Advocate
for respondent no.1
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 14-03-2018

ORDER :

1. Heard learned counsel for applicants and learned counsel for appellant-insurance company.
2. Learned counsel for appellant - insurance company points out that in view of decision by five judge bench of supreme court in the case of *National Insurance Company Ltd. Vs. Pranay Sethi and others* reported in *2017 SCC Online SC 1270 : 2017 (13) SCALE 12*, quantum in respect of non-pecuniary damages of Rs.5,75,000/- are on higher side and the award will undergo deduction of Rs.5,05,000/-. It is further being contended that the income being fetched by deceased would require further scrutiny at appellate stage.

3. However, having regard to the needs as are expressed in the civil application which are not much in dispute, it would be expedient to allow the application by letting withdrawal of 75% of the amount deposited by the insurance company.

4. As such, the applicants be allowed to withdraw 75% of the amount deposited pursuant to their apportionment under the award by the tribunal, subject to filing undertaking that they will pay back / redeposit the amount in this court within a period of three months from the date of decision in appeal, if the decision goes against them.

5. Civil application is disposed of accordingly.

[SUNIL P. DESHMUKH]
JUDGE

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