

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

CIVIL APPLICATION NO. 4131 OF 2018
IN
FIRST APPEAL [STAMP] NO. 15859 OF 2017

Laxmibai Gorakh Wable and others .. Applicants

versus

The New India Assurance Co. Ltd and ors. .. Respondents

Mr. Ravindra V. Gore, Advocate for applicants

Mr. D. P. Deshpande, Advocate for respondent no.1

CORAM : SUNIL P. DESHMUKH, J.

DATE : 13th April, 2018

ORDER :

1. Heard learned counsel for appearing parties.
2. Accident had taken place in 2011 and deceased is stated to be only bread earner for the family. Claimants are seeking withdrawal of amount to meet the family needs since their day to day life has become difficult without economic assistance, and also for education of wards of the deceased and medical treatment of applicant no.5. Family has hardly any income to eke-out existence.
3. Learned counsel for insurance company opposes, submitting that it was for negligence on the part of deceased that the accident took place and as such insurer may not be liable to the extent as has been awarded by the tribunal.

4. However, looking at need of the family about which there does not appear any dispute and since the award is in favour of the applicants and accident being of 2011, it would be expedient to allow the applicants to allow fifty per cent of the amount deposited along with accruals thereon on following conditions:

(i) Applicant may withdraw fifty percent of the amount deposited in this court along with accruals thereon on furnishing undertaking to the satisfaction of the Registrar (Judicial) to the effect that the amount being withdrawn by them would be paid back / deposited by them in this court within a period of three months from the date of decision in the appeal, if it goes adverse to their interest.

(iii) Amount being allowed to be withdrawn as aforesaid shall be shared in same proportion as apportioned under the award by tribunal and shall also be given similar treatment.

5. Rest of the amount lying deposited in this court may be invested in a nationalized bank earning interest.

6. Civil application is disposed of.

SUNIL P. DESHMUKH,
JUDGE

pnd