

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

963 CIVIL APPLICATION NO. 7588 OF 2018
IN
FIRST APPEAL NO. 1262 OF 2017

VIJAYA RAMAKANT MAHALE & ORS.
VERSUS
THE CHIEF OFFICER, BHUSAVAL NAGAR
PARISHAD, BHUSAVAL & ORS.

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Mr. Shrikant S.Patil, Advocate for Applicants.
Mr. B.S.Deshmukh, Advocate for R – 1.

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WITH
FIRST APPEAL NO. 3555 OF 2016

VIJAYA RAMAKANT MAHALE & ORS.
VERSUS
RAJU SANTU KAROSIYA & ORS.

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Mr. Shrikant S.Patil, Advocate for Applicants.
Mr. B.S.Deshmukh, Advocate for R – 1.
Mr. S.G.Chapalgaonkar, Advocate for R – 3.

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CORAM : K.K.SONAWANE, J.
DATE : 28th JUNE, 2018

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ORAL ORDER :

1. Heard the learned counsel for the applicants and learned counsel for respondent No. 1 – owner of the offending vehicle. Perused the application.

2. Pursuant to the Award passed by the Tribunal, the appellant deposited the entire sum of Rs. 22,09,171/- towards decretal amount in this Court. The claimants are seeking permission to withdraw the same. Learned counsel for the respondent raised objection that the Tribunal did not appreciate the factual aspect that the offending vehicle was insured with New India Insurance

Company Ltd. The insurance policy is in operation during the relevant period. But the Tribunal exonerated the Insurance Company and imposed the monitory liability upon the appellant. Taking into consideration the nature of the objections raised in the Appeal, I do not find any impediment to allow the applicants to withdraw the amount of compensation deposited in this Court. In case the objection of the appellant has been considered favourably at the most monitory liability would be imposed on the Insurance Company. But the applicants/original claimants can not be deprived from enjoying the fruits of the Award. Hence, the application deserves to be allowed.

3. Accordingly, the application stands allowed. The applicants/original claimants are permitted to withdraw the entire decretal amount deposited in this Court subject to furnishing the undertaking that the applicants shall refund the amount so withdrawn in case of any contingency arises in the Appeal.

4. Accordingly, the application stands disposed of in above terms. Registry to take requisite steps for further process.

[K.K.SONAWANE]
JUDGE