

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

CIVIL APPLICATION NO. 5709 OF 2018
IN FA/3821/2016

SHALANBAI RAJU JAGTAP AND ORS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR BRANCH MANAGER, AND
ANR

...
Advocate for Applicants : Mr. Rahul A. Tambe.
Advocate for Respondent No.1 : Mr. S. G. Chapalgoankar.
...

CORAM : K.K. SONAWANE, J.

DATED : 20th JUNE, 2018.

Order :-

1. Heard learned counsel for applicants and Mr. Chapalgaonkar, learned counsel for respondent No.1- Insurance Company. Despite service of notice, no one else turned up on behalf of respondent No.2- Harun s/o. Ishardali Sayyad. Perused the application.
2. The respondent-owner of offending vehicle did not prefer the appeal against impugned Judgment and Award passed by the Tribunal. The respondent – Insurance Company approached to the Appellate Forum on the issue of violation of terms and conditions of the policies. It was alleged that the driver of the offending vehicle was without valid driving license.
3. In view of objection raised in the appeal on behalf of Insurance Company as well as no appeal filed by owner, there is no impediment to allow the applicants-claimants for withdrawal of the amount

deposited in this Court on behalf of the Insurance Company. Hence, application deserves to be allowed.

4. Accordingly, application stands allowed. The applicants-original claimants are hereby permitted to withdraw the entire decretal amount in this Court subject to furnishing undertaking to the effect that they will refund the amount so withdrawn in case of any contingency arises in the appeal. It is stipulated that out of entire decretal amount allowed to be withdrawn by the applicants-original claimants, the total sum of Rs.3,00,000/- (Rs. Three Lakhs Only) be kept in Fixed Deposit Receipts account in any nationalized bank in the name of applicant No.2 Sonal Raju Jagtap for a period of five years or till settlement of her marriage, whichever is earlier. Thereafter, the amount of Rs.1,00,000/- (Rs. One Lakh Only) each be paid to the applicant No.3 Dinkar s/o. Kanhu Jagtap and applicant No.4 Parvatabai w/o. Dinkar Jagtap and rest of the decretal amount be allowed to be withdrawn by the applicant No.1 Shalanbai Raju Jagtap. Accordingly, application stands allowed in above terms and disposed of. The Registry to do the needful for disbursement of the amount as referred above. The application stands disposed of.

[K. K. SONAWANE]
JUDGE

rrd.