

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

CIVIL APPLICATION NO. 3689 OF 2018
IN
FIRST APPEAL [STAMP] NO. 37894 OF 2017

Vilas s/o Appa Sadafal and others .. Applicants

vs

The New India Insurance Co. Ltd. and anr. .. Respondents

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Mr. D. R. Markad, Advocate h/f Mr. S. B. Tarde, 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 the parties.
2. Applicants seek withdrawal of the amount deposited by respondents in this court, submitting that accident took place in 2014 wherein applicant no. 1's wife died. She had been earning member in the family and the claimants were dependent on her income. Because of her death, the family has been deprived of her earning. The applicants submit that they need compensation amount for medical treatment of applicant no. 1 and educational expenses for applicants no. 2 and 3
3. Learned counsel for respondent no. 1 purports to oppose, submitting that offending vehicle was not responsible for

accident and that the accident took place due to negligence of applicant no. 1 while driving. He has also disputed offending vehicle being insured with appellant – insurance company.

4. However, looking at that the accident had taken place in 2014 and that deceased was earning member of the family and in the absence of such income being available the family is finding it difficult to live day to day life, it would be expedient to allow the applicants to withdraw fifty per cent of the amount deposited along with accruals thereon on following conditions:

(i) Fifty per cent of the amount deposited in this court may be allowed to be withdrawn by applicants on furnishing undertaking to the satisfaction of the Registrar (Judicial) to the effect that the amount being withdrawn by them would be paid back / deposited by them in this court within a period of three months from the date of decision in the appeal, if it goes adverse to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.

(ii) Amount being allowed to be withdrawn as aforesaid shall be shared in same proportion as apportioned under the award by tribunal and shall also be given similar treatment. As such amount being withdrawn for minor applicants no. 2 and 3 be invested in a fixed deposit receipts in a nationalized bank earning interest. Interest earned be expended over minors. Undertaking to that

effect shall be filed by applicant no. 1 with copies of the same being furnished to this court.

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

8. Civil application is disposed of.

SUNIL P. DESHMUKH,
JUDGE

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