

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

**CIVIL APPLICATION NO. 4620 OF 2018
IN
FIRST APPEAL (STAMP) No. 25019 OF 2017**

Jagannath Bhau Mahajan and another

...APPLICANTS

VERSUS

New India Insurance Co. Ltd. and others

...RESPONDENTS

Mr Shashikant E. Shekade, Advocate for applicants.
Mr S.G. Chapalgaonkar, Advocate for respondent No.1

CORAM : SUNIL P. DESHMUKH, J.

DATE : 6th April 2018

ORDER :

Heard learned Counsel for the parties.

2. Learned Counsel for applicants submits that Motor Accident Claim Petition bearing No. 209 of 2010 filed by applicants has been allowed by the Motor Accident Claims Tribunal, Beed, and the learned Tribunal has granted compensation of Rs. 4,67,050/- alongwith accrued interest thereon at the rate of 9% per annum, from the date of filing application. The amount is deposited in pursuance of order

passed by this Court on stay application by the Insurer/appellant. The learned Counsel for applicants submits that applicants have been deprived of earning of their deceased son, Babasaheb, since the date of accident i.e. 1st September 2009 and, therefore, they are in dire need of amount for livelihood and also for medical treatment. As such, he requests to allow applicants to withdraw deposited amount.

3. Learned Counsel for respondent No.1/Insurance Company, however, submits that driver of insured vehicle was not holding valid and effective driving licence at the relevant time and vague and fake driving licence has been produced on record and, in such a case, Insurance Company may not be held liable to bear burden of compensation awarded.

4. Having regard to submissions advanced and that applicants/parents of deceased have lost earning of their deceased son since 2009 and they are in dire need of amount for their livelihood and medical aid, which is not seriously disputed, it would be expedient to allow applicants to withdraw amount deposited in this Court, subject to certain conditions. In the circumstances, application is allowed as follows.

(I) Applicants are allowed to withdraw 75% of the amount deposited in this Court alongwith accrued interest thereon, on furnishing an undertaking that applicants shall pay back/re-deposit the amount in this Court being withdrawn under this order, within a period of three months from the date of decision in appeal, if the decision goes against their interest.

(II) Rest 25% of the amount with accrued interest, is allowed to be withdrawn by claimants, subject to furnishing solvent security to the satisfaction of the Registrar (Judicial) of this Court.

5. Application is, accordingly, disposed of.

**(SUNIL P. DESHMUKH)
JUDGE.**