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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 6027 OF 2017
IN
FIRST APPEAL NO.3661 OF 2011

Sunita Manik Holambe and Others APPLICANTS
VERSUS
The New India Assurance Co. Ltd., and Others RESPONDENTS

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Mr. S. W. Munde, Advocate for the applicants
Mr. M. A. Deshmukh h/f Mr. S.G.Chapalgaonkar for R-1

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[CORAM : SUNIL P. DESHMUKH, J.]
DATE : 16th MARCH, 2018

ORDER :

1. Heard learned advocates for the parties.

2. Learned advocate for the applicants submits that only bread earning hand in the family had been lost in the accident and their claim for compensation had been accepted for Rs.14,12,000/-. They have received only Rs.5,59,375/-, since that had been the admitted claim. Learned advocate submits that day by day it is becoming difficult to survive since lot of amount withdrawn has been spent on maintenance of family members and education of applicants No.2 and 3. Applicants have no earning source worth the name. In the circumstances, the applicants are in dire need of the amount of claim granted.

3. Learned advocate for the respondent, however, submits that the appellant - respondent has challenged quantum granted and the deceased himself had been guilty of negligence and in the circumstances, liability to the extent granted by the tribunal may not be incurred by the appellant - insurer. Learned advocate therefore, purports to oppose the application.

4. However, looking at the circumstances that application has been moved almost five years after withdrawal of amount of Rs.5,59,375/- and it does not appear that there is any earning member left behind after death of Manik Holambe. The children are taking education. As on the date, the applicants, under the award of the tribunal are entitled to the compensation granted.

5. In view of aforesaid circumstances, it would be expedient to allow the applicants to withdraw a sum of Rs.3,00,000/- on furnishing solvent security to the satisfaction of the Registrar (Judicial). Application, as such, is partly allowed. Applicants may withdraw a sum of Rs.3,00,000/- on furnishing solvent security to the satisfaction of the Registrar (Judicial).

6. Civil application is disposed of.

[SUNIL P. DESHMUKH, J.]

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