

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

**CIVIL APPLICATION NO. 4414 OF 2018
IN FIRST APPEAL (STAMP) No. 29650 of 2017**

Shobha w/o Ravindra Shingade and others **...APPLICANTS**

VERSUS

The New India Assurance Co. Ltd. And another...**RESPONDENTS**

*Mr Upendra B. Bilolikar, Advocate for applicants
Mr M.M. Ambhore, Advocate for respondent No.1*

CORAM : SUNIL P. DESHMUKH, J.

DATE : 27th April 2018

ORDER :

Heard learned Counsel for the parties.

2. This application is moved for withdrawal of amount deposited in this Court pursuant to award passed in Motor Accident Claim Petition No. 9 of 2008 by the Motor Accident Claims Tribunal, Kandhar District Nanded, on 14th November 2016. Learned Counsel for applicants points out that applicants are widow and children of deceased, who had been only earning source for the family. He had been employed as Teacher in *Zilla Parishad* Central Primary School having handsome salary.

However, all of a sudden he died in motor vehicle accident occurred in 2007 leaving behind him applicants, who have no source of income for earning livelihood. As such, they require amount for their day to day, educational and marriage expenses of applicants No. 2 to 5. Learned Counsel for applicants submits that applicants are in dire need of amount of compensation awarded by the Tribunal and deposited in this Court.

3. Learned Counsel for the Insurance Company/appellant, however, submits that dispute is with regard to quantum of compensation granted and validity of driving licence of driver of offending vehicle. The evidence may not be sufficient to bear such huge quantum of compensation awarded by the Tribunal and liability to pay compensation may not be saddled on the Insurance Company. He, therefore, purports to resist the application.

4. Having regard to aforesaid and particularly to that earning hand of the family had been lost in 2007 and since then except no fault liability amount, no further amount is paid to claimants and as on the date Tribunal's award is in their favour and that there is no particular dispute about need of the amount expressed by applicants, it would be expedient that applicants

be allowed to withdraw fifty per cent of the amount deposited in this Court.

5. As such, applicants may withdraw fifty per cent of the deposited amount in this Court alongwith interest accrued thereon, on condition of furnishing undertaking that such withdrawal shall abide by final order in the appeal. Copy of undertaking be furnished to learned Counsel for appellant.

6. Such withdrawal shall be subject to the same treatment as directed in operative part of the Award by the Tribunal in Motor Accident Claim Petition No. 9 of 2008. Copies of fixed deposit receipts be furnished to the Court.

7. Civil Application is, accordingly, disposed of in above terms.

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

Madkar