

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

**CIVIL APPLICATION NO. 5756 OF 2018
IN FIRST APPEAL (STAMP) No. 429 of 2018**

Ashwini Wd/o Manoj Sarnaik and others

...**APPLICANTS**

VERSUS

ICICI Lombard General Insurance Company Ltd.
and others

...**RESPONDENTS**

Mr Pramod C. Mayure, Advocate for applicants

Mr A.G. Choudhary, 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. 448 of 2013 by the Motor Accident Claims Tribunal, Aurangabad, on 2nd May 2017. Learned Counsel for applicants points out that applicants are widow, son and parents of deceased, who had been only earning source for the family. He had been serving with private company on a higher post having handsome salary. However, all of a sudden he died in motor vehicle accident occurred in 2011 leaving behind him applicants, who have no source of income for earning livelihood.

As such, they require amount for their day to day expenses and education of minor and also for medical treatment and expenses etc. 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 the driver of offending vehicle was not holding valid and effective driving licence. The evidence may not be sufficient to bear such huge quantum of compensation awarded by the Tribunal. He, therefore, purports to resist the application.

4. Looking at that earning hand of the family had been lost in 2011 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 to the satisfaction of Registrar (Judicial) of this Court 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. 448 of 2013. 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