

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

**CIVIL APPLICATION NO. 5655 OF 2018
IN
FIRST APPEAL (STAMP) NO. 31490 of 2016**

Smt. Swati Amol Jorvekar and others

...APPLICANTS

VERSUS

Dolandas Gangoomal Makhija and another

...RESPONDENTS

*Mr Dr. S.D. Tawashikar, Advocate, holding for Mr Shaikh Mazhar
A. Jahagirdar, Advocate for applicants.
Mr S.S. Patil & Mr R.H. Dahat, Advocates for respondent No.2*

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. 334 of 2012 by the Motor Accident Claims Tribunal, Shrirampur, on 17th March 2015. Learned Counsel for applicants points out that applicants are widow, children and parents of deceased, who had been only earning

source for the family. He had been a businessman having handsome income. However, all of a sudden he died in motor vehicle accident occurred in 2012 leaving behind him applicants, who have no source of income for earning livelihood. As such, they require amount for their day to day expenses, medical expenses of parents and education of minor. Learned Counsel for applicants submits that applicants are in dire need of amount of compensation awarded by the Tribunal and deposited in this Court. Learned Counsel for the Insurance Company/appellant, however, submits that dispute is with regard to quantum of compensation granted. The evidence may not be sufficient to bear such huge quantum of compensation awarded by the Tribunal. He, therefore, purports to resist the application.

3. Looking at that earning hand of the family had been lost in 2012 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 the applicants, it would be expedient that applicants be allowed to withdraw fifty per cent of the amount deposited in this Court.

4. 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.

5. 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. 334 of 2012. Copies of fixed deposit receipts be furnished to the Court.

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

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

Madkar