

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

CIVIL APPLICATION NO. 5656 OF 2018
IN FAST/16385/2016

CHHAYA SUKHDEO WAGH AND ORS
VERSUS
MANOJ RAJENDRA GORE AND ANR

...
Advocate for Applicants : Mr. Shaikh Mazhar A. Jahagirdar
Advocate for Respondent No.2 : Mr. S. R. Bodade.
...

CORAM : K.K. SONAWANE, J.

DATED : 20th JUNE, 2018.

Order :-

Heard learned counsel for the applicants-original claimants and learned counsel for respondent No.2 - Insurance Company. No one else appeared on behalf of respondent No.1 Manoj Rajendra Gore. Perused the application and relevant documents placed on record.

2. The present application is filed for seeking permission to withdraw the decretal amount deposited in this Court. Mr. Bodade, learned counsel for respondent No.2- Insurance Company submits that the appeal came to be filed against impugned Judgment and Award passed by the learned Tribunal on the issue of principle of pay and recover policy as well as the involvement of another motor bike in this case. Therefore, he raised objection for not to allow the applicants-claimants to withdraw the amount.

3. In view of nature of objection raised in the appeal, it would not justifiable to preclude the applicants-claimants from enjoying the fruits of decree passed after appreciating the entire evidence on record. The learned Tribunal has appreciated the circumstances and imposed the monetary liability on the owner subject to condition that the Insurance Company shall pay the compensation, and thereafter, recover it from the owner of the offending vehicle. In such circumstances, application deserves to be allowed.

4. Hence, application stands allowed. The applicants-original claimants are permitted to withdraw the decretal amount deposited in this Court subject to condition that applicants-original claimants shall furnish the undertaking to the effect that they will refund the amount so withdrawn in case any adverse situation arises in the appeal. It is stipulated that from the total sum of decretal amount allowed to be withdrawn, the amount of Rs.2,00,000/- (Rs. Two Lakhs Only) each be invested in the Fixed Deposit Receipts account in the name of minor applicant No. 2 Poonam d/o. Sukhdeo Wagh and applicant No.3 Amol Sukhdeo Wagh, in any Nationalized Bank till they attain age of majority. Accordingly, application stands disposed of in above terms. The Registry to disburse the amount in above terms.

[K. K. SONAWANE]
JUDGE

rrd.