

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

CIVIL APPLICATION NO. 6608 OF 2018
IN FA/5047/2017

RANI TATYASAHEB DESHPANDE AND ORS
VERSUS
BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD., THR BRANCH
MANAGER, AURANGABAD AND ORS

...
Advocate for Applicants-original claimants : Mr. Suraj R. Bagal.
Advocate for Respondent No.1 : Mr. S. G. Chapalgaonkar.
Advocate for Respondents No.2,3-A,B : Mr. A. N. Walunjkar.
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CORAM : K.K. SONAWANE, J.

DATED : 20th JUNE, 2018.

Order :-

Heard Mr. Bagal, learned counsel for applicants and Mr. Chapalgaonkar for respondent- Insurance Company. Mr. Walunjkar, learned counsel for respondents No. 2, 3-A,B is present.

2. Mr. Chapalgaonkar, learned counsel for respondent No.1 – Insurance company raised objection for allowing the applicants-original claimants to withdraw the decretal amount on the ground that the very involvement of the alleged vehicle insured with the appellant is in dispute. The evidence on record is not sufficient to prove that the vehicle i.e. motor bike rider insured with the appellant had given dash to the deceased. Therefore, he prayed not to allow the original claimants for withdrawal of the amount as the insurance company has an every hope of success in appeal.

3. Heard both the learned counsel. Perused the application and findings expressed by the learned Tribunal. Taking into consideration the nature of subject matter and the factum of death of deceased in vehicular accident, it would justifiable to allow the applicants-original claimants to withdraw atleast 50 % of the amount deposited in this court towards compensation. It would not cause any injustice to other side. In contrast, it would sub-serve the purpose for substantial justice. Therefore, application deserves to be allowed.

4. Accordingly, the application stands allowed partly. The applicants-original claimants are permitted to withdraw 50% of the decretal amount deposited in this court towards compensation subject to condition that the applicants-original claimants shall furnish the undertakings to the effect that they would refund the amount so withdrawn in case any adverse situation arises in the appeal. The rest of the amount deposited in this Court towards compensation be invested in FDR account in any Nationalized Bank for a period of two years or till decision of the first appeal, whichever is earlier with liberty to renew the same if required.

5. Accordingly, the civil application stands disposed of. No order as costs.

[K. K. SONAWANE]
JUDGE

rrd.