

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

**CIVIL APPLICATION NO. 5738 OF 2018
IN FIRST APPEAL No. 5552 of 2018**

Sulubai @ Sulochana W/o Motiram Karale and others

...APPLICANTS

VERSUS

National Insurance Company Ltd. & another

...RESPONDENTS

Mr Mahesh P. Kale, Advocate for applicants

Mr A.B. Kadethankar, 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. 34 of 2013 by the Motor Accident Claims Tribunal, Gangakhed, on 30th October 2017. 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 serving as driver on private

vehicles. However, all of a sudden he died in motor vehicle accident occurred in 2013 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 minors. 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 and driver of offending vehicle was not holding valid and effective driving licence at the relevant time. The evidence may not be sufficient to bear such huge quantum of compensation awarded by the Tribunal and the Insurer may also not be liable to pay compensation. He, therefore, purports to resist the application.

3. Looking at that earning hand of the family had been lost in 2013 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.

4. As such, applicants may withdraw fifty per cent of the deposited amount in this Court alongwith interest accrued thereon, on furnishing of undertaking by applicants that the amount so withdrawn be paid back/re-deposited by them in this Court within a period of three months from date of decision in the appeal, if the same goes against the applicants. Undertaking to be filed within a period of four weeks from today. 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. 34 of 2013. 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