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

961 CIVIL APPLICATION NO. 8143 OF 2018
IN
FIRST APPEAL STAMP NO. 13449 OF 2018

SHARLET W/O RAMESH KHADSE
VERSUS
NEW INDIA ASSURANCE CO. LTD. THR.
ITS MANAGER, AURANGABAD & ORS.
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Mr. R.V.Gore, Advocate for Applicants.
Mr. M.R.Deshmukh, Advocate for R – 1.
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CORAM : K.K.SONAWANE, J.
DATE : 28th JUNE, 2018
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ORAL ORDER :

1. Mr. M.R.Deshmukh, learned counsel for the Insurance Company opposed the contention put-forth on behalf of the applicants on the ground that the alleged accident caused solely due to the negligence on the part of the deceased. The Tribunal did not appreciate the facts in proper perspective and committed error while imposing monitory liability on the vehicle insured with the respondent – Insurance Company.

2. In view of nature of the subject matter and the objections raised on behalf of Insurance Company, I find that in stead of depriving the applicant from enjoying the fruits of the Award, it would be justifiable to allow the applicant to withdraw sum of Rs. 3 Lakhs [Rupees Three Lakhs] from the amount deposited in this Court. It would definitely sub-serve the purpose in the interest of justice. Hence, the application deserves to be allowed.

3. Accordingly, the application stands allowed partly. The

applicant is allowed to withdraw the lump sum amount of Rs. 3 Lakhs [Rupees Three Lakhs] from the total amount deposited in this Court subject to condition that she shall furnish undertaking that she would refund the said amount in case of any contingency arises in the Appeal.

4. Accordingly, the application stands disposed of in above terms. Rest of the amount be invested in F.D.R. in any nationalized bank after disbursement of the amount as per the order passed in C.A. No. 7383 of 2018 in favour of the applicants – claimants. Registry to do the needful for disbursement of the amount as mentioned above.

[K.K.SONAWANE]
JUDGE