

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

943 CIVIL APPLICATION NO.11485 OF 2018
IN FA/928/2018

JAYSHREE RAVI BHARDE AND ORS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD, THR ITS AUTHORIZED
OFFICIAL AND DIV. MANAGER, AU

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Advocate for Applicants : Mr. Patil Jayant R.
Mr. A. S. Usmanpurkar For R/1;
Mr. Maniyar Irfan D., Adv. For R/2

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CORAM : P.R. BORA, J.
DATED : 28th SEPTEMBER, 2018.

PER COURT:-

1. Heard Shri Jayant Patil, learned counsel for applicants and Advocate Shri Usmanpurkar, learned counsel for respondent – insurance company.

2. The applicants have sought withdrawal of the entire amount as has been deposited by the insurance company in this Court.

3. Shri Usmanpurkar, learned counsel for the insurance company has opposed for withdrawal of the entire amount as prayed by the applicant. The learned counsel submitted that the Motor Accident Claims Tribunal (for short, the Tribunal) has awarded the sum of Rs.5,25,000/- by way of non-pecuniary damages; whereas in view of judgment delivered by the Hon'ble Apex court in the case of

National Insurance Company Ltd. Vs. Pranay Sethi and Ors. - (2017) 16 SCC 680, no amount, more than Rs.70,000/-, can be awarded under the head of Non-pecuniary damages. The learned counsel further pointed out that the future prospects are considered 50% of the income and the amount of compensation has been awarded, which is also against the settled principles of law. In the circumstances, the learned counsel has prayed for rejecting the application.

4. In view of the submissions so made, following order is passed, -

ORDER

i. The applicants are permitted to withdraw lump sum amount of Rs.6,00,000/- (Rupees six lakhs) from the deposited amount of compensation on submitting an undertaking to the satisfaction of Registrar of this Court.

ii. The balance amount be invested in Fixed Deposit Receipt in any nationalized Bank, initially for the period of two years and if so required, for the further period till disposal of the appeal.

iii. The amount of Rs.6,00,000/- permitted to be withdrawn be transmitted to the Tribunal at

(3)

Ahmednagar so as to facilitate its withdraw by the claimants.

iv. It would be open for the applicants to submit the undertaking before the Tribunal at Ahmednagar, which in turn shall be forwarded to this Court.

v. The Civil Application for withdrawal of the amount stands disposed of.

(P.R. BORA)
JUDGE

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