

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

CIVIL APPLICATION NO. 10283 OF 2018
IN FA/3355/2017

PRABHAWATI VIJAYRAO @ VIJAYKUMAR DAWANE AND ORS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR ITS AUTHORISED
SIGNATORY, AURANGABAD AND AN

...
Advocate for Applicants : Mr. Jitendra N. Ghuge
Advocate for Respondent No.1 : Mr. D. P. Deshpande
...

CORAM : SUNIL K. KOTWAL, J.

DATED : 10th OCTOBER, 2018.

ORDER :-

Heard Mr. Ghuge, learned counsel appearing for the applicants and Mr. Deshpande, learned counsel for the respondent No.1 -Insurance Company. None appears for respondent No.2.

2. Learned counsel for the applicants submits that, the applicants are the original claimants, who have filed present application for withdrawal of compensation amount deposited by the Insurance Company in this Court.

3. Learned counsel for respondent No.1 Insurance Company objected present application on the ground that, act of rash and negligent driving by the offending vehicle is not properly proved.

4. However, at this stage, this Court can not express on any merits into matter, which is pending before this Court. Considering the submission advanced on behalf of learned counsel for applicants and in view of the nature of subject matter, application deserves to be partly

allowed. The applicants-original claimants are permitted to withdraw 50% of the deposited compensation amount with accrued interest thereon, subject to filing of written undertaking in the First Appeal by the the applicants to redeposit withdrawn amount, as and when directed by this Court. Undertaking be filed within four (4) weeks from the date of this order. Remaining 50 % amount be invested in Fixed Deposit Receipts Account in any nationalized bank till final disposal of the appeal, if already not invested. Registrar (Judicial) of this Court to act accordingly. Civil Application stands disposed of in above terms.

5. Record and proceedings is received.

6. List the first appeal for final hearing at the stage of admission on 29th November, 2018.

[SUNIL K. KOTWAL]
JUDGE

rrd.