

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

13 CIVIL APPLICATION NO.9681 OF 2018 IN FAST/2258/2018

**KUSUMBAI BABURAO @ RAWAN JAGTAP AND ORS.
VERSUS
THE NEW INDIA ASSURANCE CO. LTD. THR ITS
AUTHORIZED SIGNATORY, AURANGABAD.**

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Advocate for Applicants No. 1 to 3 : Mr. M.P. Kale.
Advocate for Respondent No. 1 : Mr. M.M. Ambhore

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CORAM : V.L. ACHLIYA, J.

DATED : 30th JULY, 2018

PER COURT:-

1. The applicants have moved this application seeking withdrawal of amount deposited by respondent/ appellant -Insurance company.
2. Heard learned counsel for the applicant and learned counsel for respondent no.1/appellant-Insurance Company. Respondent No.2, though served, absent. Perused the impugned award passed by the Tribunal.
3. Pursuant to the award passed by the Tribunal, the respondent/appellant - Insurance Company has deposited Rs.3,46,000/-. Learned counsel for the appellant - Insurance Company submits that the F.I.R. was lodged 8 days after the incident. He further submits that the deceased was travelling in a goods vehicle as a passenger and therefore, the Insurance Company is not liable to pay the compensation.

4. Considering the over all facts of the case and the submissions advanced, I am of the view that passing of following order would meet the ends of justice.

ORDER

[i] Subject to final out-come of the Appeal, the applicants are permitted to withdraw amount of Rs. 1 Lakh from the amount deposited by the appellant – Insurance Company. The amount of Rs. 1 Lakh be paid to applicants Nos.1 and 3 in equal proportion by transferring the amount in their respective savings bank accounts on their furnishing undertaking to the satisfaction of the Registrar (J) that in the event, the appeal is allowed or award is modified, the applicants shall deposit the amount in this Court within 12 weeks from the date of order.

[ii] After making the payment of Rs. 1 Lakh as above, the balance of amount together with interest accrued be initially invested for a period of 18 months with with State Bank of India, High Court branch, Aurangabad with standing instructions to renew the same time to time till further orders from this Court. The interest accrued over the amount invested shall be paid to applicant No. 1 after every three months by transferring the amount in her savings bank account for the purpose of education and maintenance of minor applicant no.2. as a natural guardian i.e. mother. The interest accrued be paid to applicant no.1 till further orders from this Court or the applicant no.2 attains age of majority, whichever is earlier.

[iii] The application stands disposed of in above terms.

(V.L. ACHLIYA)
JUDGE