

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

**CIVIL APPLICATION NO. 10432 OF 2018
IN
FIRST APPEAL (STAMP) NO. 31029 OF 2017**

Sureshchandra Nathulal Jaiswal & anr.

Applicants.

Versus

United India Insurance Co. & others.

Respondents.

Mr. L.H. Kawale, Advocate for the applicants.

Mr. Mandar Deshmukh, Advocate holding for
S.G. Chapalgaonkar, Advocate for respondent No.1.

Mr. Manoj Shinde, Advocate for respondent No.2.

CORAM : SUNIL K. KOTWAL,J.

Dated : 21st August 2018.

PER COURT :-

. Heard learned Counsel for the applicants, learned Counsel for Insurance Company and learned Counsel for M.S.R.T.C.

2. Learned Counsel for the Insurance Company submits that the liability cannot be fastened against Insurance Company as it was third party insurance. He submits that the passengers are not covered under that insurance policy.

3. Learned Counsel for the applicants submits that at least 50% amount be permitted to be withdrawn.
4. What will be the liability of Insurance Company, can be decided only at the stage of final hearing of appeal and not at this preliminary stage. It will take long time for final adjudication. Therefore, it is desirable to pay 50% of compensation amount deposited in this Court in First Appeal. Hence the following order.
5. The application is allowed.
6. 50 % amount out of the deposited compensation amount in M.A.C.P. No.77 of 2011 be paid to the applicants Sureshchandra Nathulal Jaiswal and Vaishali @ Vikilesh Sureshchandra Jaiswal equally, after obtaining separate undertakings from applicants Sureshchandra and Vaishali to deposit the same as and when directed by this Court.
7. Civil Application is disposed of accordingly.
8. Re-issue notice to respondent Nos.2 to 4 in First Appeal.

(SUNIL K. KOTWAL)
JUDGE

vdd/