

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

926 CIVIL APPLICATION NO. 10834 OF 2018

SHARDA RAJENDRA BADA KH AND ORS
VERSUS
THE ORIENTAL INSURANCE CO. LTD., THR. ITS DIV. MANAGER,
AURANGABAD AND ORS

...
Advocate for Applicants : Shri R.A.Tambe
Advocate for Respondent No.1 : Shri Manoj Shinde h/f.
Shri M.K.Goyanka

...
CORAM : P.R.BORA, J.

DATE: 28th August, 2018

PER COURT:-

1 Heard Shri R.A.Tambe, learned Counsel appearing for the applicants and learned Counsel Shri Manoj Shinde h/f. Shri M.K.Goyanka, learned Counsel appearing for the respondent No.1 Insurance Company.

2 Learned Counsel for the applicants prayed for permitting the applicants to withdraw the entire amount as deposited by the Insurance Company. The learned Counsel further prayed for transmitting the amount deposited by the Insurance Company in this Court to the Motor Accident Claims Tribunal, Shrirampur, so that it may be convenient for the applicants to withdraw the said amount.

3 Shri Manoj Shinde, learned Counsel appearing for the respondent No.1 Insurance Company opposed the request of the applicants for withdrawal of the entire amount.

4 The impugned Judgment and award is challenged by the appellant Insurance Company mainly on two grounds; first is that the Insurance Company could not have been held liable to jointly and severally pay the amount of compensation since the person, who was driving the Motorcycle and insured with the Insurance Company, was not holding any licence to drive the Motorcycle and as such it was the fundamental defect, and his another objection is about quantum of compensation.

5 Having considered the submissions, I deem it appropriate to pass the following order:-

ORDER

I) The applicants are permitted to withdraw Rs.5,00,000/- of the deposited amount on submitting an undertaking to the satisfaction of the Motor Accident Claims Tribunal, Shrirampur. The balance amount be invested in the Fixed Deposit Receipt in any nationalized bank, initially, for the period of two years and if so required, for further period till the decision of the Appeal.

II) Civil application is disposed of.

III) As requested by the learned Counsel for the applicants, the amount of Rs.5,00,000/- be transmitted to the Motor Accident Claims Tribunal, Shrirampur, so as to facilitate its withdrawal by the applicants.

IV) The Motor Accident Claims Tribunal, Shrirampur, shall forward the undertaking given by the applicants at the time of withdrawal of the amount to this Court.

(P.R.BORA)
JUDGE

SPT